



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the Regulations”)

Chamber Ref: FTS/HPC/PR/25/1780

Re: Property at 48 2/1 Bank Street, Glasgow, G12 8LZ (“the Property”)

Parties:

Mr Elliot Jessup, 3/2 6 Woodford Street, Glasgow, G41 3HP (“the Applicant”)

Mr Stephen McDermott, 21 Blackwood Road, Glasgow, G62 7LB (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £600.

Background

1. By application submitted on 25th April 2025 and made under Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an order in terms of Regulation 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the Regulations”).
2. The Applicant lodged a copy of the tenancy agreement between the parties that commenced on 1st July 2024 and ended on 31st January 2025, a tenancy deposit certificate stating that the deposit of £600 was protected from 6th January 2025, and correspondence between the parties including evidence of the end date of the tenancy.
3. Notification of the application and a Case Management Discussion was served upon the Respondent by Sheriff Officer on 29th July 2025.

4. By email dated 15th August 2025, the Respondent lodged written representations and productions, including medical letters and documentation and tenancy deposit correspondence.

The Case Management Discussion

5. A Case Management Discussion (“CMD”) took place by telephone conference on 8th September 2025. The Applicant was in attendance. The start of the CMD was delayed to allow the Respondent to attend. The Respondent was not in attendance.
6. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
7. The Applicant explained the background to the application. His tenancy commenced on 1st July 2024 and ended on 31st January 2025. A tenancy deposit of £600 was paid. It was only upon giving the Respondent notice on 6th January 2025 and asking where the tenancy deposit was lodged, that the Respondent lodged the deposit with an approved tenancy deposit scheme. This was outwith the 30 days allowed for within the Regulations, and six months after the tenancy commenced.
8. The Applicant said he was sorry to read that the Respondent had been suffering from ill-health at the time of the commencement of the tenancy, however, that had not prevented the Respondent from raising the rent from £400 to £600 at the start of the tenancy. The Applicant said the Property was not in good repair, with a leaky toilet and a hole in the wall. It was his position that the Respondent had not carried out his landlord duties to a satisfactory standard.
9. The Applicant said he had requested the maximum award as it was his position that the Respondent was a professional landlord with multiple properties, who should have known what he was doing. It was his position that the Respondent does not respect tenants or keep his properties in order.
10. Responding to questions from the Tribunal as to the £250 holding deposit taken by the Respondent before the commencement of the tenancy, the Applicant said he understood that, if he had changed his mind about taking on the lease, this sum would not have been returned to him. The Applicant said he could not say definitively that he had been told this, but he understood that would be the position. The sum was deducted from the first month’s rent.
11. The Tribunal referred the Applicant to the following statement from the Upper Tribunal decision, UTS/AP/19/0020:

‘Cases at the most serious end of the scale might involve: repeated breaches against a number of tenants; fraudulent intention; deliberate or reckless failure

to observe responsibilities; denial of fault; very high financial sums involved; actual losses caused to the tenant, or other hypotheticals.'

12. The Applicant said he did not feel this case was at the most serious end of the scale, based on the Upper Tribunal decision referred to. The Applicant indicated he was content to leave the matter of the award to the Tribunal. The Applicant said he received his deposit back from the tenancy deposit scheme as the Respondent did not make any response to his claim for return of the full deposit.

Findings in Fact and Law

- 13.
- (i) The parties entered into a private residential tenancy agreement in respect of the Property that commenced on 1st July 2024 and ended on 31st January 2025.
 - (ii) A tenancy deposit of £600 was paid to the Respondent by the Applicant at the commencement of the tenancy.
 - (iii) The deposit was not lodged with an approved tenancy deposit scheme within 30 days of the commencement of the tenancy.
 - (iv) The deposit was lodged with an approved tenancy deposit scheme on 6th January 2025.
 - (v) The Respondent has breached Regulation 3 by failing to pay the deposit into an approved tenancy deposit scheme timeously.

Reasons for Decision

14. The Regulations were put in place to ensure compliance with the tenancy deposit scheme, and to provide the benefit of dispute resolution for parties. The Tribunal considers that its discretion in making an award requires to be exercised in the manner set out in the case *Jenson v Fappiano (Sheriff Court (Lothian and Borders) (Edinburgh) 28 January 2015* by ensuring that it is fair and just, proportionate and informed by taking into account the particular circumstances of the case. The Tribunal must consider the facts of each case appropriately.
15. The Tribunal took guidance from the decision of the Upper Tribunal UTS/AP/19/0020, as set out above. The Tribunal considered this to be a serious matter, although not one at the most serious end of the scale. The Applicant's deposit was not lodged with an approved tenancy deposit scheme as required by Regulation 3, and remained unprotected for the duration of the tenancy.
16. The Tribunal took into account the mitigating circumstances put forward by the Respondent in his written representations, in respect of his considerable and serious health issues at the time of the failure to comply with the

Regulations. The Tribunal recognised there was no attempt by the Respondent to deny responsibility for failing to comply with the Regulations. The Tribunal recognised that the Respondent lodged the tenancy deposit in an approved scheme when he became aware of his mistake, thus allowing the Applicant the benefit of adjudication on the deposit should that have been necessary.

17. The Tribunal considered that the Respondent is an experienced professional landlord who ought to have had proper procedures in place to ensure compliance with the obligation to lodge the tenancy deposit, as he appears to have done for other tenancies. The Applicant was entitled to have confidence that the Respondent would comply with his duties as a landlord.
18. The Tribunal was concerned to see that the Respondent requested a holding deposit in respect of this tenancy, as holding deposits are illegal premiums in Scotland, however, limited weight was given to this matter as the Respondent was not present to provide clarification.
19. Taking all the circumstances into account, the Tribunal decided it would be fair and just to award a sum of £600 to the Applicant, which equates to the deposit.

Decision

20. The Tribunal grants an order against the Respondent for payment to the Applicant of the sum of £600 in terms of Regulation 10(a) of The Tenancy Deposit Schemes (Scotland) Regulations 2011.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Helen Forbes

Legal Member/Chair

8th September 2025
Date