

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 and under The Tenancy Deposit Schemes (Scotland) Regulations 2011 ("The Regulations")

Chamber Ref: FTS/HPC/EV/23/3170 and FTS/HPC/CV/23/3169

Re: Property at 1-1 28 Walker Street, Glasgow, G11 6RE ("the Property")

Parties:

Mingcan Tang, Haolai Jia, Liyuan Xue, Flat 2/2, 55 Glencoe Street, Anniesland, Glasgow :7-3-3 Shengshi Huacheng, Jiange County, Jiange County, Sichuan Province, China; No. 149, East Loop Road, Yang county, Hanzhong city, Shanxi Province, China ("the Applicants")

Lei Liu, Room 601, Number 22, Lane 869, Longxuan Road, Jin Shen, Shanghai, China. ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member) and Ann Moore (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes a Payment Order against the Respondent in following terms: In respect of Application with reference FTS/HPC/CV/23/3169, The Respondent must pay Mingcan Tang the sum of £400.00 and Haolai Jia and Liyuan each the sum of £575.00. Thereafter in respect of Application with reference FTS/HPC/EV/23/3170, the Tribunal orders that the Respondent must pay each Applicant a further sum of £100.00 under Regulation 10.

Background

[2] In Application with reference FTS/HPC/CV/23/3169, The Applicants seek a Payment Order for the return of deposits they claim to have paid to the Respondent under a tenancy agreement between the parties. In Application with reference FTS/HPC/EV/23/3170, the Applicants seek an award under the Regulations for the non-registration of those deposits into an approved scheme. The Tribunal administration appear to have assigned that Application an “EV” reference rather than a “PR” reference in error. The Applications however are all about deposit claims and have nothing to do with Eviction Orders which are typically assigned an EV reference.

[3] The Respondent’s whereabouts had initially been unknown but a solicitor acting on his behalf had contacted the Tribunal and confirmed that they acted on his behalf.

Prior Procedure

[4] The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 28 November 2024. The Applicants were all personally present. The Respondent, who was not in attendance, was represented by Ms Du, solicitor of LB & Co Solicitors. There was a Mandarin interpreter present.

[5] Ms Du explained that she had now received all the relevant Tribunal papers and was in a position to proceed. She explained that the Respondent accepted that he had received deposits and failed to register these in an approved scheme. She explained that once the Respondent realised that he had not registered the deposits as required by the Regulations, he did so, albeit late. Ms Du also explained that the Respondent had offered to return the deposits minus what he considered to be legitimate and reasonable deductions, which were not accepted by the Applicants. Ms Du said that this showed a willingness to resolve the matter. Ms Du explained that the award sought by the Applicants was punitive. The Respondent is currently living in China. All parties currently live in China apart from Mr Mingcan Tang.

[6] The Tribunal decided to adjourn the Application to an evidential Hearing to take place in person in Glasgow Tribunals Centre for evidence to be heard and a final decision to be made. Case management Orders in the form of Directions were made regulating the production of any further documentation to be submitted. The Application thereafter was continued to a Hearing.

The Hearing

[7] The Application then called for a Hearing in Glasgow Tribunals Centre at 10 am on 16 September 2025. Only Mr Mingcan Tang was present from the Applicants. The Respondent was not present but was again represented by Ms Du of LB & Co Solicitors.

There was a mandarin interpreter present for the benefit of Mr Tang. The interpreter interpreted everything that was said from English into Mandarin and vice-versa. The Tribunal began by discussing if there were any preliminary matters or whether parties were ready to start the Hearing. There were no preliminary matters and parties indicated that they were ready to start the Hearing.

[8] After Mr Tang gave evidence, Ms Du had the right to cross-examine the evidence heard. The Tribunal also asked questions throughout to ensure that it understood the evidence. At the end of evidence, Mr Tang and Ms Du had the opportunity to make closing submissions.

[9] The Tribunal comments on the evidence heard as follows.

Mr Mingcan Tang

[10] Mr Tang's tenancy agreement at the Property commenced on 1 September 2022. There was no mention of a deposit in the tenancy agreement itself. However, there was a separate letter dated 24 May 2022 in which the Respondent acknowledged receipt of a deposit of £400.00 from Mr Tang. Mr Tang explained that he lived in the Property for a short while before he signed the tenancy. When he moved in there were three other people already living there. They included Mr Haolai Jia and Liyuan Xue alongwith another tenant who moved out when Mr Tang moved in.

[11] Mr Tang's monthly rent was £450.00 per month. He had discovered the Property on social media. When asked how he paid the rent, he said he *"wasn't sure but normally by bank transfer"*. He stated that he paid a deposit of £450.00 by bank transfer on 1 September 2022. He ultimately left the Property along with the other tenants then living in the Property on 31 August 2023. He explained that at that point he asked for his deposit back but the *"landlord refused"*. Mr Tang explained that the Respondent had not put the deposit into an approved scheme as required by the Regulations. He explained that he hadn't received the deposit back yet either. The Tribunal asked Mr Tang if he knew why he hadn't received his deposit back. The evidence at this point, even with the benefit of the Mandarin interpreter, was still somewhat confusing and not the easiest to follow. The Tribunal did its best to ensure that it understood what was being said as far as possible and it may simply be expedient to record the words on the matter verbatim that were said by the interpreter on behalf of Mr Tang. Mr Tang said *"He told me to go to the Property to check everything was ok. Several days after the landlord gave me list saying somethings needed to be deducted from the deposit"*. Mr Tang went on to say *"Mr Xue contacted the landlord and to give the key one day later, the landlord said £100 needed to be paid for the key one day later. Landlord said will come on 1 September to examine the house then we clean the house, we took photographs, landlord seemed quite happy with it. On 3 September landlord came to house and we were not there then landlord not happy about it needed to take money from deposit."*

[12] The Tribunal referred Mr Tang to the separate letter which documented the paying of the deposit. The Tribunal pointed out that it said that the sum of £400.00, rather than £450.00 was paid as a deposit. Mr Tang accepted he might have made a mistake and that the deposit was actually £400.00 rather than £450.00. He explained the landlord gave him this letter printed out and he signed it in hard copy. He then confusingly said that the received it by email. Mr Tang explained that before he could move into the Property the landlord told him there were two things he had to do: pay 6 months worth of rent in one go and also pay a deposit.

[13] The Tribunal discussed what Mr Tang's knowledge was regarding the situation with the other two Applicants. Mr Tang said " I think I paid £400, another paid £550.00 and another paid £600.00. Mr Tang then corrected himself and said the figure of £600.00 was actually incorrect- it was £650.00: *"I cant remember the exact money"*.

[14] Mr Tang explained that there was third tenant living in the Property when he moved in who subsequently moved out- his name was Mr Fanxin Tang and he moved out in *"maybe November or December 2022."* Mr Tang explained that Mr Fanxing Tang received his deposit back to him when he vacated the Property. Mr Haolai Jia moved in when Mr Fanxin Tang moved out and Mr Jia paid the same sum as a deposit which had just been returned to Mr Fanxin Tang. Mr Jia paid about £600.00 but that this sum was paid *"actually in Chinese money not English Sterling Pounds. Mr Jia got nothing back from his deposit."*

[15] Mr Tang explained that he currently works at Glasgow University and his current address is Flat 2/2, 55 Glencoe Street, Anniesland, Glasgow. He explained that the others left the Property on 31 August 2023. They left for two reasons. The first one being that the contract ended and the other being that the landlord informed them that the rent would be increased and they would need to pay a year's worth of rent in one go.

[16] Mr Tang explained that he had now been without his deposit for two years. This had badly affected his life as he couldn't use his money to do the things he wanted to do.

[17] Mr Tang's evidence became somewhat more confusing when he then proceeded to describe efforts made by the Respondent to give him back his deposit. He appeared to state that *"£1000,00 or something had been given to Mr Jia."* And *"After landlord knew we take the case- he offered us deposit back in full"*.

[18] It then became very unclear why Mr Tang hadn't accepted the offer of having his deposit returned to him. He then said that the landlord ultimately put the deposit back in the scheme. It seemed very clear that Mr Tang had been offered his deposit back but declined to accept any payment.

[19] In cross- examination it was put to him by Ms Du that he had been offered his deposit back to him on two occasions and he had refused to cooperate. It was also put to him that some of the deposit had been returned to Mr Jia. Mr Tang was also challenged by Ms Du about what he knew about the deposit situation of others including Mr Jia. It was put to him that in fact Mr Xia had taken the keys to the Property to China and simply not done what he was required to do and return the keys at the end of the tenancy. Mr Tang's answers suggested that this might be true. Mr Tang also accepted that another member of the scheme had received an email inviting him to engage in the process of negotiating his deposit return.

[20] Ms Du put to Mr Tang that he had in fact avoided engaging with the scheme. Mr Tang's answers were somewhat vague on that point. It seemed to the Tribunal clear that Mr Tang had more likely than not, not cooperated with having his deposit either returned to him directly by the Respondent or by the scheme with the assistance of Mr Xia. Mr Tang insisted that the Respondent would already have had his contact details. Mr Tang accepted that his discussions with Mr Xia were in essence that he was not going to bother to do anything.

Submissions on behalf of Respondent

[21] Ms Du obviously could not give evidence but made submissions on behalf of the Respondent. Her first point was that the sum paid by Mr Tang to the Respondent should not be construed as a deposit within the meaning of Section 120 of the Housing (Scotland) Act 2006 . Ms Du highlighted that the relevant deposits were paid "*in Chinese money*" and that said funds were paid into a foreign bank account outside the UK. Ms Du stated that these funds were "*never entered the UK banking system*" and accordingly were outwith the scope of the Regulations.

[22] The Tribunal found there to be a fundamental flaw in this submission. The Respondent's position was that he had in fact now paid the sum of money into an approved scheme. Ms Du appeared to submit that this sum of money was however not a deposit. Ms Du's argument here found no favour with the Tribunal as she seemed to be suggesting that the sum of money paid by the Applicants to the Respondent as a deposit and now registered in a relevant deposit protection scheme in Scotland was not a deposit.

[23] Ms Du also appeared to state that "*Chinese law applied*" as China, it was said, "*heavily regulates money in its own currency being transferred outwith its geographical territory*". Ms Du stated that a deposit has to be immediately available to meet those obligations under a tenancy. The Tribunal considered that Chinese law was irrelevant to these proceedings. A Scottish private Residential Tenancy had been created. There was a signed letter indicating that a deposit had been paid. That deposit was now registered in an approved scheme within the meaning of the Regulations. Chinese law was of no relevance.

[24] Ms Du also explained that the Respondent lived in China and was unfamiliar with the duties incumbent on him under the Regulations. Ms Du explained that the Respondent lived at Room 601, Number 22, Lane 869, Longxuan Road, Jin Shen, Shanghai, China. Ms Du explained that the Respondent had lived in Edinburgh for some time before moving to China. Ms Du also explained that the Respondent had made numerous attempts to repay the deposit and that no financial harm had been caused to the Applicants. Ms Du also submitted that if the Tribunal were minded to make an award under the Regulations, then any award should be at the lowest possible end of the scale. Ms Du also invited the Tribunal to make an *“award of expenses against the Applicants jointly and severally for the Hearing on 6 March 2025”* which proceeded in the absence of the Applicants. At that Hearing, the Application had been refused with this decision then being recalled on Application by the Applicants. The Recall was granted because it became clear that the Applicants had not received the necessary 14 days advance notice of the date of the Hearing.

Comment on Evidence

[25] The Tribunal concluded that the precise details of what had happened were somewhat hard to follow. The Respondent hadn't given evidence and only Mr Tang gave evidence on behalf of the Applicants. Mr Tang's evidence was somewhat hard to follow for the reasons commented on above. It seemed somewhat unclear what the situation was with the Applicants' deposit. The Tribunal concluded that certain facts did however appear capable of being established. The Tribunal therefore made the following findings in fact.

Findings in Fact

1. Mr Tang's tenancy at the Property commenced on 1 September 2022. The Respondent was his landlord. Mr Tang paid the Respondent a deposit of £400.00. Mr Haolai Jia and Liyuan Xue had also entered into a tenancy agreement at the Property and paid deposits to the Respondent in the sums of £600.00 and £550.00
2. The Applicants left the Property on 31 August 2023. The Respondent had not registered the deposits received into an approved scheme and did not return them to the Applicants immediately at the conclusion of the tenancy. At the end of the tenancy, the Respondent sought to withhold certain sums from the deposits paid to him.
3. On 20 August 2024, the Respondent paid a certain sum as a deposit into an Approved scheme.

4. The situation regarding Haolai Jia and Liyuan Xue's deposits is unclear. Mr Tang has not cooperated with either the relevant deposit scheme and has not cooperated with the Respondent's efforts to return at least part of his deposit to him.
5. The exact amount registered in the approved scheme is not clear. The exact amount the Respondent proposed to return to Mr Tang and others is not clear.

Decision

[26] Having made the above findings in fact, the Tribunal proceeded to consider how it ought to dispose of the case. The Tribunal considered that the whole situation was something of a jumble and the evidence was rather muddled. The Tribunal had not been informed how much of any deposit had been registered in the approved scheme. The sums had only been paid into the scheme long after the tenancies had ended. The Tribunal had not been told what the Applicants other than Mr Tang were doing about the deposit sums that were registered in the scheme. The Tribunal was unclear why Mr Tang had not accepted at least a part-payment of the deposit back to him from the Respondent. The references to Chinese money and the fact that the tenancy agreements did not mention deposits but then there were side letters about deposits all added to the confusion.

[27] However it was clear to the Tribunal that the Respondent had not paid the deposit sums received from each Applicant into an approved scheme. That had caused the whole confusion. If that had been done at the outset then the whole situation would not have arisen. As the Respondent did not give evidence it was hard for the Tribunal to consider that there was much in the way of mitigation by the Respondent. Ms Du effectively only said that the Respondent was unfamiliar with the processes. Very little was known about the Respondent and nothing was said that gave the Tribunal any great insight into who the Respondent actually was. Instead the majority of Ms Du's submissions were focussed on arguing that the sums should not be considered as deposits because they were never in the UK banking system. As noted, that ignores the fact that the Respondent's position was also that he had paid the deposits into the scheme on 20 August 2024.

[28] The Tribunal notes that it is a matter of judicial discretion as to how any award under the Regulations is to be made. The Tribunal notes that the Applicants also seek a Payment Order for the return of their deposits albeit that these deposits may be registered with an Approved scheme.

[29] The Tribunal considers that the most expedient method of dealing with the Applications is to order that the Respondent should return the deposit sums to the Applicants. The Tribunal therefore orders that the sum of £400.00 should be paid to Mr Tang. The sum of £575.00 should also be paid to each of Haolai Jia and Liyuan Xue. The deposit side letter stated that those two tenants had paid a collective sum of £1,150.00

and so the Tribunal considers it appropriate to simply order that this sum be divided equally.

[30] In order to avoid a situation whereby the Applicants may receive “*double counting*” by then subsequently contacting the deposit scheme and also seeking reimbursement from them, the Tribunal notes that in such circumstances the Respondent should show this decision to the relevant deposit scheme who ought to then take account of that in their own decision making process and have the funds retained in the scheme paid out to the Respondent.

[31] In respect of sums due for the actual breach of the Regulations, the Tribunal does acknowledge that the Respondent’s failure to lodge the deposits has clearly caused the Applicants some inconvenience. The Tribunal considers that each Applicant ought then to receive a further payment of £100.00 each in terms of the Regulations. Given that Mr Tang at least appears to have deliberately avoided being re-imbursed for a period of time, the Tribunal cannot consider that a higher sum would be just or reasonable given the circumstances of the case.

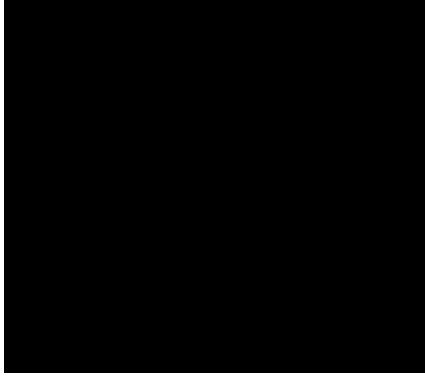
[32] Accordingly Mr Tang should receive the total sum of £500.00 and Haolai Jia and Liyuan Xue should receive the total sum of £675.00 each.

Expenses

[33] The Tribunal will not make any finding in respect of expenses. Expenses in this jurisdiction is governed by Rule 40. Ms Du invited the Tribunal to find the Applicants liable for wasted costs occasioned by their non-attendance at the Hearing on 6 March 2025. However it was clear in the Tribunal’s decision in the subsequent Application for recall that the Applicants had not in fact received the appropriate notice period prior to that Hearing being assigned. It is not therefore appropriate to conclude that the Applicants ought to bear any financial consequences for their non-attendance. Having considered Rule 40, the Tribunal makes no award of expenses.

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.



Date 21st October 2025