

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 Regulation 10 of The Tenancy Deposit
Schemes (Scotland) Regulations 2011**

Chamber Ref: FTS/HPC/PR/25/2234

Re: Property at 97 Mugdock Road, Milngavie, G62 8PA ("the Property")

Parties:

Mr Christopher Cotton, 11 Kessington Square, Bearsden, Glasgow, G61 2QQ ("the Applicant")

Tracey Kelly, 13 Beaumont Gate, Glasgow, G12 9ED ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision

At the Case Management Discussion ("the CMD) which took place by telephone conference on 5 November 2025 both parties were present.

Prior to the CMD the Tribunal had received the following representations from the parties –

- Email of 13 October 2025 from the Respondent with representations and attachments;
- Email of 17 October 2025 from the Respondent with representations and attachments; and
- Email from Applicant dated 16 October 2025 with representations.

Background

The Tribunal noted the following background:-

- The Respondent previously leased the Property to the Applicant in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 29 June 2019.
- The deposit paid by the Applicant to the Respondent in terms of the PRT was £650.
- The PRT, at clause 11, refers to the deposit being paid to Safe Deposits Scotland.
- The Applicant vacated the Property in early January 2025.
- At no time was the deposit lodged with Safe Deposits Scotland or any other approved scheme as required by Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the Regulations").

None of the foregoing is in dispute.

This application is made under Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the Regulations").

The CMD

At the CMD the parties made the following additional oral submissions –

By the Applicant

- i. The Applicant only discovered the deposit had not been lodged in an approved scheme after the PRT ended. The Respondent mentioned to the Applicant that the deposit should not be returned to him, which the Respondent indicated he did not necessarily dispute. However, the Respondent had not been contacted by Safe Deposits Scotland and made contact directly to find the deposit not lodged. Safe Deposits Scotland recommended the Applicant check with the other approved schemes to see whether the deposit had been lodged there. He did so. The deposit had not been lodged.
- ii. The PRT ended early in January 2025.
- iii. The deposit has not been returned.
- iv. The adjudication process is an important part of the scheme arrangements and is there to give protection.
- v. The Applicant is seeking a penalty be imposed on the Applicant for her failure to comply with the Regulations.

By the Respondent

- i. The Respondent said she was a "newcomer" to letting.
- ii. She previously lived in the Property as her own home.
- iii. The Applicant was her first formal tenant.
- iv. The tenancy process was new to her. She was stressed at the time and rushing.
- v. There was no deviousness on her part.
- vi. She had never leased a property before.
- vii. Following the Applicant's departure the Property has been sold.
- viii. She did not lease the Property out again after the Applicant's departure.
- ix. She is not the landlord of any other properties.
- x. She was aware of the Regulations but not of the seriousness of failing to comply with them. She didn't realise compliance was a legal necessity and accepts she was remiss and careless.
- xi. She accepted that issues of damage and repair at the end of the PRT are not relevant to this application.

The parties did not dispute each other's positions.

Findings in Fact

- i. The Respondent previously leased the Property to the Applicant in terms of the PRT that commenced on 29 June 2019.
- ii. The deposit paid by the Applicant to the Respondent in terms of the PRT was £650.
- iii. The PRT, at clause 11, refers to the deposit being paid to Safe Deposits Scotland.
- iv. The Applicant vacated the Property in early January 2025.
- v. At no time was the deposit lodged with Safe Deposits Scotland or any other approved scheme as required by Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the Regulations").
- vi. The deposit has not been repaid to the Applicant.
- vii. The Applicant does not dispute that the deposit is probably not due back to him.

- viii. The Respondent was a "newcomer" to letting.
- ix. The Respondent previously lived in the Property as her own home.
- x. The Applicant was the Respondent's first formal tenant.
- xi. The Respondent had never leased a property before.
- xii. The tenancy process was new to the Respondent.
- xiii. There was no deviousness on the Respondent's part in not complying with the Regulations.
- xiv. The Respondent is not the landlord of any other properties.
- xv. The Respondent was aware of the Regulations but not of the seriousness of failing to comply with them.
- xvi. The Respondent did not realise compliance with the Regulations was a legal necessity and was remiss and careless in that regard.
- xvii. Following the Applicant's departure the Property has been sold.
- xviii. The Respondent did not lease the Property out again after the Applicant's departure.

Reasons for Decision

The Tribunal takes a landlord's failure to comply with the Regulations seriously.

Regulation 3 of the Regulations states:-

*"(1)A landlord who has received a tenancy deposit in connection with a relevant tenancy must, within 30 working days of the beginning of the tenancy –
(a) pay the deposit to the scheme administrator of an approved scheme;"*

Regulation 10 of the Regulations states:-

"If satisfied that the landlord did not comply with any duty in regulation 3 the First-tier Tribunal -

(a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit;"

The Respondent was the landlord under the PRT.

The PRT is a relevant tenancy under the Regulations.

The sum of £650 relative to the deposit for the PRT was not timeously lodged (or indeed lodged at all) with the scheme administrator of an approved scheme in terms of Regulation 3.

A sanction is therefore payable by the Respondent to the Applicant in terms of Regulation 10.

The Regulations require a landlord to lodge a tenancy deposit with an approved scheme within a period of 30 working days from the beginning of the tenancy. The deposit was unprotected for the entire duration of the tenancy being around five and a half years.

In determining the amount payable by the Respondent to the Applicant the Tribunal took into account the following:-

- i. That the deposit was unprotected for the entire duration of the PRT.

- ii. The Respondent was aware of the Regulations and the obligations arising in terms of them but failed to comply with them.
- iii. The Respondent had never previously been a commercial landlord and had not appointed a letting agent.
- iv. She is not and never had been the landlord of any other properties.
- v. The Respondent had not appreciated the seriousness of the failure to comply with the Regulations.
- vi. The Applicant was unable to take advantage of the adjudication scheme operated by Safe Deposits Scotland at the end of the tenancy.
- vii. The Respondent has sold the Property and is no longer a commercial landlord.

In all the circumstances the Tribunal considered the failure to pay the deposit into an approved scheme to be towards the lower end of the scale of sanctions available to it.

The Tribunal therefore determined that, having regard to the foregoing, the Respondent must pay to the Applicant a sum of £650 by way of a penalty for the failure to comply with the Regulations. Such a penalty is proportionate, fair and just in the circumstances.

Decision

The Respondents are ordered to pay to the Applicant a sum of £650.

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.

Gillian Buchanan

Legal Member/Chair

5 November 2025
Date