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/25/2352

Re: Property at Flat C (First Floor Left), 9 Jamaica Street, Aberdeen, AB25 3UX ("the Property")

Parties:

Miss Georgia Ventura, 8 Anderson Court, Dornoch, IV25 3RT ("the Applicant")

Mr Martin Mitchell, 2 Gordon Place, Bridge of Don, Aberdeen, AB23 8QX and Endeavour Aberdeen Ltd, having its Registered Office at 2 Gordon Place, Bridge Of Don, Aberdeen, AB23 8QX ("the Respondents")

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision

At the Case Management Discussion ("CMD") which took place by telephone conference on 30 October 2025 the Applicant and the Respondent were in attendance.

The CMD was also in respect of the related case bearing reference HPC/FTS/CV/25/2365.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that –

Background

The Tribunal noted the following background:-

- The Second Respondent is the heritable proprietor of the Property.
- The First Respondent previously leased the Property to the Applicant in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 3 October 2022.
- On 20 September 2022 the Applicant paid to the First Respondent the deposit payable in terms of the PRT, namely £650.
- The Applicant vacated the Property on 28 May 2025.

- At no point before, during or after the PRT did the Respondents pay the deposit into an approved scheme as required in terms of 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 Regulations.

The Case Management Discussion
At the CMD the parties made the following oral submissions:-

The Applicant

i. The deposit was paid to the First Respondent personally.
ii. A few weeks after the Applicant vacated the Property she checked with the three approved schemes to see if the deposit had been lodged with one of them.
iii. The deposit has not been repaid in whole or in part.

The First Respondent and for the Second Respondent

i. He acknowledged the deposit had not been protected in an approved scheme and now understands his legal responsibilities.
ii. He accepted he had failed in his duty but this was not deliberate.
iii. The funds were kept in his personal account.
iv. He struggles with paperwork and administrative tasks due to ADHD and dyslexia which he accepts is not an excuse.
v. Failure to lodge the deposit was an oversight and not an intentional act.
vi. He retained the deposit at the end of the tenancy as there were issues to be fixed and he has evidence of works done and associated costs.
vii. He secured no financial gain due to the condition of the flat.
viii. During the PRT he did his best to be fair and responsive and has learned from this experience.
ix. Going forwards the Respondent will comply with the Regulations.
x. He was involved in a serious car accident in 2024 and broke his heel. He has been signed off work since the accident, has no income, has 3 young children aged 6, 9 and 11 years and is struggling to support his family.
xi. He asked the Tribunal take into account his hardship but accepts responsibility and apologies.
xii. He is pursuing a benefits appeal and speaking to a psychiatrist as his mental state is not fit for work.
xiii. He faces further surgery in the coming months.
xiv. The error was in good faith and he did not seek to take advantage of the Applicant.
xv. He has been a landlord for a few years. He has 4 rental properties in total, 2 of which are rented out.
xvi. One property is in the First Respondent's name and the other 3 properties are in the name of the Second Respondent. The income from the latter 3 properties goes to the Second Respondent.
xvii. He normally rents the properties to family and friends for long periods. He therefore doesn't generally take deposits.
xviii. He previously employed a letting agent as he struggles with paperwork but he had issues getting payments from the letting agent so his wife then took charge. On separating from his wife he has been dealing. He is now looking to get help again.
xix. He asked that the Tribunal impose the lowest possible penalty.

Findings in Fact

The Tribunal made the following findings in fact:-

i. The Second Respondent is the heritable proprietor of the Property.
ii. The First Respondent previously leased the Property to the Applicant in terms of the PRT.
iii. The PRT commenced on 3 October 2022.
iv. On 20 September 2022 the Applicant paid to the First Respondent personally the deposit payable in terms of the PRT, namely £650.
v. The Applicant vacated the Property on 28 May 2025.
vi. At no point before, during or after the PRT did the Respondents pay the deposit into an approved scheme as required in terms of Regulation 3 of the Regulations.
vii. A few weeks after the Applicant vacated the Property she checked the three approved schemes to see if the deposit had been lodged.
viii. The deposit has not been repaid in whole or in part.
ix. The Respondents have been landlords for a number of years.
x. The Respondents have 4 rental properties in total, 2 of which are rented out. One property is in the First Respondent's name and the other 3 properties are in the name of the Second Respondent. The income from the latter 3 properties goes to the Second Respondent.

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 Second Respondent is the heritable proprietor of the Property and the First Respondent is the sole Director thereof.

The PRT is in the name of the First Respondent and the deposit payable under the PRT was paid by the Applicant to him.

The PRT is a relevant tenancy under the Regulations.

The deposit of £650 was not lodged 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. Accordingly given that the PRT commenced on 3 October 2022 the Respondents had until 11 November 2022 to lodge the deposit into an approved scheme. They failed to do so. The deposit was unprotected for the entire duration of the tenancy and has still not been paid to the Applicant.

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

i. That, having regard to the requirement to lodge the deposit in an approved scheme within 30 working days of the beginning of the tenancy, the deposit was unprotected for a period of slightly in excess of 2 years and 6 months.
ii. The Respondents are commercial landlords and have been so for a number of years. They ought to have been familiar with the Regulations and complied with them.
iii. The Applicant had still not received a refund of the deposit and has required to raise separate Tribunal proceedings therefore.
iv. The Applicant was unable to take advantage of the adjudication scheme operated by Safe Deposits Scotland at the end of the tenancy relative to any alleged damages claim.

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

The Tribunal therefore determined that, having regard to the foregoing, the Respondents must jointly and severally pay to the Applicant a sum of £1300 by way of a penalty for the failure to comply with the Regulations, being two times the deposit. Such a penalty is proportionate, fair and just in the circumstances.

Following intimation of the Tribunal's decision to the parties the First Respondent sought to pay the sum due by instalments. Based on the information available the Tribunal was not prepared to consider an instalment arrangement but suggested the First Respondent consider an application for a Time to Pay Direction should he wish to pursue such an arrangement further before the Tribunal.

Decision

The Respondents are jointly and severally ordered to pay to the Applicant a sum of £1300.

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

____________________________	**30 October 2025**
Legal Member/Chair	**Date**