



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

Chamber Ref: FTS/HPC/PR/25/2306

Re: Property at 1 Berryhill Crescent, Grangemouth, FK3 0DJ (“the Property”)

Parties:

Ms Catherine Harvey, 89 Thornbridge Road, Falkirk, FK2 9AZ (“the Applicant”)

The Property Place Falkirk Ltd, 8b Dundas Street, Grangemouth, FK3 8BX (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed.

- **Background**

1. The Applicant applied to the First-Tier Tribunal for Scotland (Housing and Property Chambers) (“the Tribunal”) for an order under Regulation 9 of the Tenancy Deposit **Schemes** (Scotland) (Regulations) 2011. The Applicant claimed in her application that she had paid One Thousand, Two Hundred Pounds (£1,200) to the Respondent for a property at 1 Berryhill Crescent, Grangemouth, FK3 0DJ.
2. The application was accepted for determination and served upon the Respondent.
3. The Respondent instructed agents to represent them.
4. By letter dated 27 October 2025, the Respondent, through their agents, made written representations.

5. The written representations were to the extent that the application was incompetent, as there was no tenancy agreement ever entered into.
6. There was an acknowledgement that the sum of One Thousand, Two Hundred Pounds (£1,200) had been paid the Applicant to the Respondent, but thereafter no tenancy agreement was very entered, the property was never occupied, no rent was ever paid and the Applicant found alternative accommodation.

- **Case Management Discussion**

1. At the case management discussions, the Applicant attended along with her father as a supporter. The Respondent was present, along with his solicitor, Mr Sandeman.
2. The Applicant was aware of the position of the Respondent. There was no dispute that the Applicant had paid the sum of One Thousand, Two Hundred Pounds (£1,200) on or about 26 March 2025. However, she intimated on 20 April 2025 that she was not taking up occupation of the property.
3. Although there is a disagreement between parties as to whether a tenancy agreement had been provided, it was accepted that no tenancy agreement had ever been signed.
4. There appeared to be no agreement as to the date of commencement of rent to be paid.
5. The property was being “done up”. According to the Applicant, the property was not “done up” in time and she simply withdrew her wish to occupy the property.
6. The issue, accordingly, to determine, was whether there was in fact any tenancy ever created.
7. It was acknowledged by Mr Sandeman that there was no need for a formal written tenancy agreement, but, at the same time, there had to be agreed heads for a tenancy to exist.

- **Findings in Fact**

1. That the Applicant paid the sum of One Thousand, Two Hundred Pounds (£1,200) to the Respondent on 26 March 2025.
2. That no written tenancy agreement was every entered into.
3. That the Applicant did not take up occupation of the property.
4. That no date for the commencement of payment of rent was ever agreed.

5. That the Applicant intimated on 20 April 2025 that she was not taking up occupation of the property.
6. That the tenancy deposit was not paid into any tenancy deposit scheme.

- **Reasons for Decision**

1. The Tribunal had regard to Regulation 3 of the Tenancy Deposit Schemes (Scotland) (Regulations) 2011.
2. In terms of regulation 3, the following is stated:

3.— (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; and
 - (b) provide the tenant with the information required under regulation 42.
(3) A “relevant tenancy” for the purposes of paragraphs (1) and (2) means any tenancy or occupancy arrangement—
 - (a) in respect of which the landlord is a relevant person; and
 - (b) by virtue of which a house is occupied by an unconnected person, unless the use of the house is of a type described in section 83(6) (application for registration) of the 2004 Act.
3. In this case, although clearly a deposit was paid, there was no “relevant tenancy”. The Applicant never took up occupation of the premises. There was no agreement as to when any rent was going to be paid. The Applicant had intimated prior to any thirty day period that she was not taking up occupation of the property.
4. In these circumstances, it could not be concluded that there was a relevant tenancy. Without a relevant tenancy the Respondent was not under any obligation to pay the deposit into an approved scheme.
5. In these circumstances, the deposit was more akin to payment being made to reserve a property, as opposed to entering into a tenancy agreement.
6. It was acknowledged by the Respondent that the deposit had not been returned to the Applicant but it was narrated that this was the “wrong procedure” for the Applicant to seek monies being returned.
7. The Tribunal agreed with that. There was no relevant tenancy here. Without a relevant tenancy, there could be no obligation to pay the deposit into an approved scheme.
8. Having made that determination, the application fell to be dismissed.

- **Decision**

1. The application was dismissed.

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.

Mark Thorley

14th November 2025

Legal Member/Chair

Date