



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

Chamber Ref: FTS/HPC/PR/25/2190

Re: Property at Glen Court, Flat E, Room 18, Staff Accommodation, Raigmore Hospital, Inverness, IV2 3YW (“the Property”)

Parties:

Dr Alistair Cowie, 8 Hamilton Court, Powell Road, Basildon, Essex, SS15 6HZ (“the Applicant”)

NHS Highland, NHS Highland, Assynt House, Beechwood Park, Inverness, IV2 3HG (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment by the Respondent to the Applicant in the sum of Seven Hundred and Fifty One Pounds Twelve Pence (£751.12) be made.

- **Background**

1. The Applicant applied to the Tribunal by application dated 21 May 2025. The application concerned the alleged failure by the Respondent to place a tenancy deposit within a registered tenancy deposit scheme. The Applicant submitted alongside the application a copy of his rental agreement, together also with confirmation from the tenancy deposit agencies that there had been no tenancy deposit paid.
2. The application was accepted for determination on 1 July 2025.

3. The Applicant set out that he had paid a deposit in the sum of Three Hundred and Seventy Five Pounds Fifty Six Pence (£375.56) on 23 July 2024.
4. The tenancy had come to an end on 29 July 2025. The tenancy deposit had been repaid on 16 September 2025.

- **The Case Management Discussion**

1. At the case management discussion, the Applicant attended and Ms Donachie attended for the Respondent.
2. In advance of the case management discussion, the Respondent had submitted representations. These representations were dated 31 October 2025.
3. The Respondent acknowledged and accepted that the Applicant had leased a property at Glen Court, Flat E, Room 18, commencing on 2 August 2024 and that the lease had terminated on 29 July 2025.
4. The Respondent had received a tenancy deposit. There was a delay in arranging for the refund of the deposit.
5. Until 6 October 2025 the Respondent did not transfer deposits into an approved scheme. The Respondent had erroneously believed that since they were a public body, they were exempt from the requirement to do so.
6. They now acknowledge that there was such a duty. The Respondent accepted that it was in breach of its obligations for the duration of the lease with the Applicant.
7. It was now accepted by the Respondent that they required to pay such deposits into the relevant deposit schemes.
8. Accordingly, there was no dispute in facts between the parties.

- **Findings in Fact**

1. The parties had entered into a tenancy agreement for the lease of the property, commencing on 2 August 2024. The Applicant had paid a deposit in the sum of Three Hundred and Seventy Five Pounds Fifty Six Pence (£375.56).
2. The tenancy deposit was not paid into an approved scheme.
3. The tenancy came to an end on 29 July 2025.
4. The tenancy deposit was returned in full on 16 September 2025.

5. The tenancy deposit had been unprotected throughout the entire period of the lease.

- **Reasons for Decision**

1. Having decided that the Respondent had failed to comply with the duty under Regulation 3(1) of the 2011 Regulations to pay the tenancy deposit into an approved deposit scheme within thirty working days of the start of the tenancy, the Tribunal was therefore obliged to make an Order requiring the Respondent to make payment to the Applicant, in terms of Regulation 10 of the 2011 Regulations.
2. The Tribunal is required to consider the sum which the Respondent should be ordered to pay to the Applicant, which could be any amount up to three times the amount of the tenancy deposit. The amount of any award is the subject of judicial discretion after careful consideration of the circumstances of the case, as per the decision of the Inner House of the Court of Session in the case of *Tenzin v Russell* 2015 Hous.LR.11.
3. In considering the appropriate level of Payment Order to be made in the circumstances, the Tribunal considered the need to proceed in a manner which is fair, proportionate and just, having regard to the seriousness of the breach (*Sheriff Welsh in Jenson v Fappiano* 2015 GWD4-89).
4. The Tribunal noted the view expressed by Sheriff Ross in *Rollet v Mackie* ([2019] UT45) that the level of penalty should reflect the level of culpability involved. As Sheriff Ross noted at paragraph 13 of his decision: "The admission of failure tends to lessen the fault: A denial would increase culpability."
5. The Respondent had accepted liability here.
6. The Tribunal considered the various factors to be considered as set out in *Rollet v Mackie*. The Respondent was a public body. The deposit had not been paid into a scheme from the time of it being paid over on 2 August 2024 until the conclusion of the tenancy on 29 July 2025. The deposit accordingly was entirely unprotected, although it was clearly acknowledged that the Respondent was a public body. The tenancy deposit was not returned until 16 September 2025 and again that should have been undertaken earlier, which was acknowledged by the Respondent.
7. Taking all the above considerations into account, the Tribunal considered that an award above the middle of the possible penalty scale would be appropriate. We therefore determined that an Order for Seven Hundred and Fifty One Pounds Twelve Pence (£751.12), two times the amount of the tenancy deposit, would be fair, proportionate and just, having regard to the seriousness of the breach.

8. This took into account the fact that the Respondent is a public body, that the tenancy deposit had been entirely unprotected, and that the tenancy deposit was not returned as promptly as it could have been.

- **Decision**

1. The Tribunal determined that the Respondent has failed to comply with the duty in terms of Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 to pay a tenancy deposit to the scheme administrator of an approved scheme within the prescribed timescale. The Tribunal therefore makes an Order requiring the Respondent to pay to the Applicant the sum of Seven Hundred and Fifty One Pounds Twelve Pence (£751.12).

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.

M Thorley

Legal Member/Chair

20 November 2025

Date