



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/25/2686

Re: Property at 45 - 5 Torrance Park, Edinburgh, EH4 7LF (“the Property”)

Parties:

Ms Sonali Mahay, 14 Bath Road, Walsall, WS1 3BS (“the Applicant”)

Mr Rahat Chowdhury, 12a Main St, Ballynahinch, Northern Ireland, BT24 8DN, Ireland (“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 be dismissed.

- **Background**

1. The Applicant applied to the Tribunal for an order under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011. The application was made on the basis that a “deposit” had been taken by Respondent but had never been placed within a tenancy deposit scheme.
2. The application was dated 19 June 2025. The application was accepted for determination on 17 July 2025.
3. Alongside the application had been lodged a copy of the lodger agreement entered into between the parties, together also with a copy of the deposit that had been paid.
4. The Tribunal determined itself to make a direction. The direction was to the effect that the Applicant had been made aware that consideration would have to be given as to whether this was a “relevant tenancy”. The

acceptance of the application to be admitted to a case management discussion was no indication that the application would ultimately be considered valid by the First-Tier Tribunal.

- **The Case Management Discussion**

1. At the case management discussion, the Applicant attended along with her representative, Mr Farhad Kochaliya. The Respondent also attended.
2. Parties were agreed on the facts. The agreement had commenced on 1 October 2024. It had stopped early following upon a fire at the property on 15 April 2025.
3. It appeared clear that this was a lodger's agreement. It was not a tenancy agreement. The Respondent lived in the property throughout.
4. The Respondent accepted that the deposit had been paid and, in addition to that, that the tenancy had ended early, and halfway through one month. The Respondent accepted that the Applicant was due to be returned the deposit and also one-half of rent, totalling Three Hundred and Twenty Five Pounds (£325).
5. It was noted by the Tribunal that there were separate proceedings that had been raised for this. The Respondent indicated simply he had no money.
6. That in relation to the issue as to whether this was a relevant tenancy under the Tenancy Deposit Schemes (Scotland) Regulations 2011, it clearly was not. This was a lodging agreement.
7. Accordingly, there was no requirement for the Respondent in this case to lodge the deposit within a regulated tenancy deposit scheme.
8. The Applicant appeared to accept this.

- **Findings in Fact**

1. That the parties had entered into a lodging agreement, whereby the Applicant occupied a room of the property.
2. That this was not a "relevant tenancy".
3. That accordingly there was no requirement for the Applicant to place the deposit within a regulated tenancy deposit scheme.

- **Reasons for Decision**

1. There was no dispute on the facts of the case, in terms of when the Applicant had commenced lodging within the property or when this had ended.

2. Both parties seemed to accept that this was a lodging agreement and that there was no requirement for the tenancy deposit to be placed within a scheme.
3. This clearly was not a relevant tenancy.
4. The paperwork confirmed that. Parties' submissions confirmed that.
5. It was noted, in terms of this decision, that the Respondent accepted the requirement (in separate proceedings) to repay both the deposit and one-half of the month of rent that had been occasioned by the early ending of the agreement by way of a fine.
6. However, these were not matters before this Tribunal.
7. This Tribunal was tasked simply with determining the issue under the 2011 Regulations. Having determined that this was not a relevant tenancy, the application fell to be dismissed.

- **Decision**

1. To dismiss the application.

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

28th November 2025

Legal Member/Chair

Date