

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act**

Chamber Ref: FTS/HPC/PR/25/3310

**Re: Property at 55 Frederick Crescent, Port Ellen, Isle of Islay, PA42 7BD (“the
Property”)**

Parties:

**Mr Thomas O’Farrell, Portnahaven Church Manse, Portnahaven, Isle of Islay,
PA47 7SG (“the Applicant”)**

**Mr Cameron Wallace, 8 Red Burn Wynd, Helensburgh, G84 7EH (“the
Respondent”)**

Tribunal Members:

George Clark (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be decided without a Hearing
and made an Order for Payment by the Respondent to the Applicant of the sum
of £1,425.**

Background

1. By application, dated 3 August 2025, the Applicant sought an Order for Payment in respect of the failure of the Respondent to comply with Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”). The Applicant’s complaint was that the Respondent had failed to lodge a deposit of £475 in an approved tenancy deposit scheme. The Applicant was seeking compensation of up to three times the amount of the deposit.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 1 January 2021 at a monthly rent of £475, with a deposit of £475. The Tenancy Agreement stated that the deposit would be protected in a government approved deposit protection scheme. The Applicant also provided a copy bank statement showing a payment of £950 to the Respondent on 16 November 2020 and emails, all dated 16 July 2025 from letting Protection Scotland, SafeDeposits Scotland and My Deposits Scotland, the three

approved tenancy deposit schemes, all confirming that the deposit had not been lodged with them. In addition, he provided copies of messages between the Parties, including two of 12 July 2025 in one of which the Respondent told the Applicant that the Property would need to be cleaned at an estimated cost of £100 and another in which the Applicant asked the Respondent to provide him with details of the deposit scheme in which the deposit was held.

3. On 19 November 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 10 December 2025. The Respondent provided written representations on 10 December 2025. He did not address his failure to lodge the deposit and focused entirely on his view that the Property had been left in a poor condition.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 16 January 2026. The Applicant was present. The Respondent was not present or represented,
5. The Applicant told the Tribunal that the tenancy ended on 30 June 2025. He added that, despite serving Notice to Leave on the basis that extensive works were required to the Property, the Respondent had advertised it on a local Facebook page "The Island Notice Board" on 28 June 2025 as being available for let from mid-July. The Respondent did not inspect the Property until 12 July. The Applicant had been told by a friend that a new tenant had moved in shortly after the Applicant moved out.

Findings of Fact

- (i) The Parties entered into a tenancy agreement with the commencing on 1 January 2021. It stated that a deposit of £475 was payable in addition to the rent.
- (ii) The Applicant paid a deposit of £475 on 16 November 2020.
- (iii) The Respondent did not lodge the Applicant's deposit in an approved tenancy deposit scheme.
- (iv) The tenancy ended on 30 June 2025.
- (v) The Respondent has, to date, refused to refund the full deposit.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to enable it to determine the application without a Hearing.
7. Under Regulation 3(1) of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("The 2011 Regulations"), a landlord must, within 30

working days of the beginning of the tenancy pay the deposit to the scheme administrator of an approved scheme. Under Regulation 10, if satisfied that the landlord did not comply with any duty in Regulation 3, the Tribunal **must** order the landlord to pay to the tenant an amount not exceeding three times the amount of the tenancy deposit. Regulation 42 of the 2011 Regulations requires a landlord to provide certain information to tenants, including the name and contact details of the scheme administrator of the tenancy deposit scheme to which the deposit has been paid.

8. The Tribunal noted that the Respondent did not lodge the deposit with an approved tenancy deposit scheme and that he has failed to return the deposit and has claimed £100 from it for cleaning the Property. This is an argument that he could have put in an adjudication by the administrator of an approved scheme, but he lost the right to do so because he did not lodge the deposit with such a scheme. The Tribunal was not prepared to speculate on whether and, if so, to what extent a scheme administrator would have allowed deductions from the deposit. The Tribunal considered the Respondent's failure to have been deliberate non-compliance. The tenancy agreement stated in terms that it would be lodged in an approved scheme, but the Respondent failed to do so. Further, he had failed to return the deposit when the tenancy ended. The Applicant's deposit had been at risk for the entire duration of the tenancy, a period of more than four years. The Tribunal also observed that, the Respondent having given as his reason for serving a Notice to Leave the fact that extensive repairs were required internally and externally, including repairs to the kitchen ceiling and the fitting of a new kitchen, there would have been no benefit in paying for cleaning to be carried out in advance of such disruptive work.
9. Having considered all the evidence before it, the Tribunal decided that it would order the Respondent to pay the sum of £1,425, being the maximum sum the Tribunal can award. The Tribunal regarded this as fair, reasonable and proportionate, taking into account the extreme seriousness of the Respondent's failure to lodge the deposit, his failure to offer any explanation for having retained the deposit in his own hands and his failure to return it when the tenancy ended.

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.

George Clark

Legal Member/Chair

16 January 2026
Date