



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section under regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/25/3295

Property: 137B Main Street, Prestwick, South Ayrshire, KA9 1LA

Parties:

Gordon Sutherland, residing at 30 Stonecrop Place, Ayr, KA7 3XA ("the Applicant")

Doreen McGahey, residing at 14 Victoria Court, Liverpool, L17 8UL ("the Respondent")

Tribunal Member:

Paul Doyle (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent has breached her obligations under regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

Background

1. In May 2017 the respondent let to the applicant the property at 137B Main Street, Prestwick, South Ayrshire, KA9 1LA. The tenancy ended in March 2025. In October 2022 the applicant paid a tenancy deposit of £500.

The Case Management Discussion

2. A case management discussion took place by telephone conference at 10am on 5 January 2026. The Applicant was represented by Mr G Tierney of Ayr Housing Aid Centre SCIO. The respondent was neither present nor represented. The case file reveals that the applicant has had adequate notice of the time, date and method of

joining the hearing. No application is made for an adjournment. This case can justly be determined in the respondent's absence.

3. It is not disputed that the deposit was not lodged with an approved tenancy deposit scheme within 30 days of commencement of the tenancy. Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 tells me that I must make a payment order against the respondent. I can dispose of this case today, without the need for a further hearing.

Findings in Fact

4. The Applicant (together with his late wife) and the Respondent entered into a short assured tenancy agreement for the property on 20/05/2017. The tenancy ended in March 2025.

5. The rent in terms of the Tenancy Agreement was £500 per month. It was paid by a combination of housing benefit and payments from the applicant. From February 2020 the housing benefit element was paid directly to the respondent.

6. In 2021 it became clear that rent arrears had accumulated because of confusion over the amount of housing benefit paid. With the help of the social work department, the applicant entered into a payment plan to clear the arrears and to pay a tenancy deposit of £500.

7. After termination of the lease the respondent retained the deposit of £500 without explanation.

8. The respondent did not pay the deposit into an approved tenancy deposit scheme

9. The respondent had no intention of depriving the applicant of repayment, but ignored her obligations under the Tenancy Deposit Schemes (Scotland) Regulations 2011. The respondent has no other rental properties. She has now sold the property and is no longer a landlord.

Reasons for Decision

10. It is beyond dispute that a deposit of £500 was paid in October 2022. On the facts as I find them to be, the deposit has not been paid into an approved scheme.

11. This may have been the respondent's first (and only) experience as a landlord. The respondent acted without legal advice. The respondent has no history of breaches of the 2011 Regulations. Against those mitigating factors I must balance the undisputed fact that the deposit remains unprotected.

12. The Applicant asked me to make a payment order. The purpose of the order is not to enrich the applicant. The purpose of the order is to sanction the respondent; to mark society's displeasure; to protect society and to ensure the enforcement of the 2011 Regulations in the future.

13. The amount of deposit was £500.00. The deposit remains unprotected. A payment order equivalent to the one and a half times the value of the deposit reflects the seriousness of the breach of the 2011 Regulations.

14. The appropriate level of payment order is £750.00

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for payment to the Applicant of Seven Hundred and Fifty pounds (£750.00) within 14 days of service of this order.

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.

Paul Doyle

Legal Member

5 January 2025

Paul Doyle