



**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 (“the Regulations”)**

**Chamber Ref: FTS/HPC/PR/24/5320**

**Re: Property at Flat H, New Station Cottages, Chirnside, Duns, TD11 3LQ (“the Property”)**

**Parties:**

**Ms Diana Dimitrova, Flat 1, Tevior House, High Street, Eyemouth, TD14 5EU (“the Applicant”)**

**Property Lets G Drummond & S Renton, Property Lets, Broom House, Duns, TD11 3PP (“the Respondent”)**

**Decision (in the absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £1100.**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mrs M Lyden (Ordinary Member)**

**Background**

1. This is a Rule 103 application. The Applicant is seeking payment in respect of the Respondent’s failure to lodge the tenancy deposit of £550 in an approved tenancy deposit scheme. The Applicant lodged a copy of a private residential tenancy agreement between the parties which commenced on 21<sup>st</sup> September 2019 and ended on 21<sup>st</sup> August 2024 with a monthly rent of £275, a tenancy deposit receipt showing payment on 21<sup>st</sup> September 2019, approved tenancy deposit scheme emails, and photographs of the Property.
2. By letter dated 22<sup>nd</sup> April 2025, the Respondent provided written representations for this application and the conjoined application FTS/HPC/CV/24/5319. The Respondent stated that the tenancy was a joint tenancy and that the joint tenant moved to another property within the same complex. It was the Respondent’s position that the joint tenant’s ‘bond’ of £275 was transferred to the new property. The Respondent stated ‘there is

matters relating to the Tenancy Deposit Protection Scheme which we will address at a later date.'

3. A Case Management Discussion ("CMD") took place by telephone conference on 3<sup>rd</sup> July 2025. No party was in attendance. The Tribunal noted the Respondent had previously indicated they would not be in attendance. The Tribunal decided to issue a Direction to the Applicant for this and the conjoined Rule 111 case, to ascertain the reason for her non-attendance, whether she intended to continue with the application, and to clarify certain matters, including the following:

*Clarification as to the amount of the tenancy deposit. The Respondent states that half the deposit was transferred to the former joint tenant's new tenancy. If that is the case, how can the Applicant seek the sum of £550?*

4. By email dated 21<sup>st</sup> July 2025, the Applicant responded to the Direction. The Applicant stated that the joint tenant had informed her that she did not receive anything from the Respondent regarding the tenancy deposit.
5. By letter dated 21<sup>st</sup> July 2025, the Respondent lodged a note of defence. The only information therein that was relevant to this application was a reiteration of the submission that the Applicant's 'bond' was £275.
6. By email dated 16<sup>th</sup> September 2025, the Applicant lodged written representations.
7. By letter dated 22<sup>nd</sup> September and email dated 13<sup>th</sup> November 2025, a third party lodged representations on behalf of the Respondent. The third party was informed that representations could only be accepted from the Respondent or their properly-appointed representative.
8. By email dated 20<sup>th</sup> November 2025, the Respondent requested a postponement of the forthcoming CMD for medical reasons. The Respondent was informed of the requirements of Rule 28 of the Procedural Rules.
9. By email dated 25<sup>th</sup> November 2025, the Respondent lodged medical evidence of ill-health and asked that the Tribunal consider his defence to the application based on the documentation provided.

### **Case Management Discussion**

10. A CMD took place by telephone conference on 9<sup>th</sup> December 2025. The Applicant was in attendance. A Bulgarian interpreter was in attendance. The Respondent was not in attendance.

11. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent, noting the Respondent's request that the application be dealt with on the documentation provided.
12. The Applicant explained the circumstances around the payment of the deposit to the Respondent, saying a sum of £550 had been paid on 21<sup>st</sup> September 2019 and a further sum of £550 on 21<sup>st</sup> October 2019. Thereafter the rent was £275 monthly. The Applicant was not clear that the deposit had been paid in two instalments, but referred to the receipt provided by the Respondent which stated that £550 was received in September and October for 'Rent/Bond'. The Applicant said she had not noticed that the tenancy agreement states that the deposit is £500. The Applicant said she was not aware of any transfer of half of the deposit to another property. Her former joint tenant had informed her that she had not received any funds from the Respondent.
13. The Applicant discovered after the tenancy ended that the deposit had not been placed in an approved tenancy deposit scheme. The Applicant said she had provided the Respondent with an opportunity to complete a check out at the Property, but she was told to leave the key under a stone, and no check out was carried out. The Respondent later claimed damage to the Property as a reason for withholding the deposit.

### **Findings in Fact and Law**

14.
  - (i) The parties entered into a private residential tenancy agreement in respect of the Property that commenced on 21<sup>st</sup> September 2019 and ended on 21<sup>st</sup> August 2024.
  - (ii) The tenancy was initially a joint tenancy.
  - (iii) A tenancy deposit of £550 was paid to the Respondent by the Applicant on behalf of the joint tenants at the commencement of the tenancy.
  - (iv) The deposit was not lodged with an approved tenancy deposit scheme within 30 days of the commencement of the tenancy.
  - (v) The Respondent has breached Regulation 3 by failing to pay the deposit into an approved tenancy deposit scheme timeously.

### **Reasons for Decision**

15. The Regulations were put in place to ensure compliance with the tenancy deposit scheme, and to provide the benefit of dispute resolution for parties.

The Tribunal considers that its discretion in making an award requires to be exercised in the manner set out in the case *Jenson v Fappiano (Sheriff Court (Lothian and Borders) (Edinburgh) 28 January 2015* by ensuring that it is fair and just, proportionate and informed by taking into account the particular circumstances of the case. The Tribunal must consider the facts of each case appropriately.

16. The Tribunal took guidance from the decision of the Upper Tribunal UTS/AP/19/0020 which states: '*Cases at the most serious end of the scale might involve: repeated breaches against a number of tenants; fraudulent intention; deliberate or reckless failure to observe responsibilities; denial of fault; very high financial sums involved; actual losses caused to the tenant, or other hypotheticals.*'
17. The Tribunal considered this to be a serious matter, although not one at the most serious end of the scale. The Applicant's deposit was not lodged with an approved tenancy deposit scheme as required by Regulation 3, and remained unprotected for the duration of the tenancy. This deprived the parties of the opportunity for adjudication regarding any alleged damage to the Property.
18. No mitigating circumstances were put forward by the Respondent regarding the failure to lodge the tenancy deposit. The Respondent did not provide any evidence that half of the tenancy deposit had been transferred to another property. In any event, that was not relevant to whether or not the Respondent failed to lodge a tenancy deposit of £550 for a joint tenancy at the start of the tenancy.
19. The Tribunal had limited information on the Respondent's circumstances; however, it was clear from written representations lodged by the Respondent that they let more than one property and have been doing so for many years. It would appear that the Respondent is an experienced landlord, and no reasonable excuse has been given for the Respondent's failure. The Tribunal considered that the Respondent ought to have had proper procedures in place to ensure compliance with the obligation to lodge the tenancy deposit. The Applicant was entitled to have confidence that the Respondent would comply with their duties as a landlord.
20. Taking all the circumstances into account, the Tribunal decided it would be fair and just to award a sum of £1100 to the Applicant, which equates to two times the deposit.

## Decision

21. The Tribunal grants an order against the Respondent for payment to the Applicant of the sum of £1100 in terms of Regulation 10(a) of The Tenancy Deposit Schemes (Scotland) Regulations 2011.

## **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.**

# Helen Forbes

**Legal Member/Chair**

**9<sup>th</sup> December 2025**

**Date**