



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Regulation 10 of the Tenancy Deposit  
Schemes (Scotland) Regulations 2011**

**Chamber Ref: FTS/HPC/PR/25/2287**

**Re: Property at 157/1 Comely Bank Road, Edinburgh, EH4 1BQ ("the Property")**

**Parties:**

**Mr Christopher Sinclair, 70 Learmonth Court, Edinburgh, EH4 1PD ("the Applicant")**

**Kwai Heung Siu, 11 Clerwood Loan, Edinburgh, EH12 8PY ("the Respondent")**

**Tribunal Members:**

**Andrew Upton (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Application should be dismissed.**

**Statement of Reasons**

1. This Application called for its Case Management Discussion by teleconference call on 6 January 2026. The Applicant was not present or represented. The Respondent was present on the call and supported by her daughter, Miss Jennifer Siu.
2. In this Application the Applicant seeks sanction under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011. He claims that the Respondent failed to timeously lodge a tenancy deposit with an approved scheme within 30 working days of the tenancy commencing, as required by Regulation 3. The tenancy began on 13 May 2012. He claims that the deposit ought to have been paid to an approved scheme administrator by 24 June 2012, but was in fact paid on 22 October 2012. He seeks a sanction of three times the tenancy deposit.

3. The Respondent's position is that no approved scheme was operational when the deposit was paid by the Applicant. As such, Regulation 48 applied, such that the Respondent had until 30 working days after the expiry of the period of three months from the date that an approved scheme became operational. The schemes became operational on 2 July 2012, and accordingly the deposit required to be paid to an approved scheme administrator by 13 November 2012; which it was.
4. In terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017:-

**“27.— Dismissal of a party's case**

...

- (2) The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to—
  - (a) comply with an order which stated that failure by the applicant to comply with the order could lead to the dismissal of the proceedings or part of them...

**29. Hearing case in the absence of a party**

If a party or party's representative does not appear at a hearing, the First-tier Tribunal, on being satisfied that the requirements of rule 24(1) regarding the giving of notice of a hearing have been duly complied with, may proceed with the application upon the representations of any party present and all the material before it.”

5. In terms of the Tenancy Deposit Schemes (Scotland) Regulations 2011:-

**“3.—**

- (1) A landlord who has received a tenancy deposit in connection with a relevant tenancy must, within 30 working days of the beginning of the tenancy—
  - (a) pay the deposit to the scheme administrator of an approved scheme; and
  - (b) provide the tenant with the information required under regulation 42.

**9.—**

- (1) A tenant who has paid a tenancy deposit may apply to the First-tier Tribunal for an order under regulation 10 where the landlord did not comply with any duty in regulation 3 in respect of that tenancy deposit.
- (2) An application under paragraph (1) must be made no later than 3 months after the tenancy has ended.

**10.**

If satisfied that the landlord did not comply with any duty in regulation 3 the First-tier Tribunal —

- (a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit; and

- (b) may, as the First-tier Tribunal considers appropriate in the circumstances of the application, order the landlord to—
  - (i) pay the tenancy deposit to an approved scheme; or
  - (ii) provide the tenant with the information required under regulation 42.

**48.**

Where the tenancy deposit was paid to the landlord on or after the day on which these Regulations come into force and before the first day on which an approved scheme becomes operational, regulation 3 applies with the modification that the tenancy deposit must be paid and the information provided within 30 working days of the date which falls three months after the first day on which such a scheme becomes operational.”

6. The Applicant did not attend the CMD to insist upon his Application. He was advised in his notification letter that his attendance was required. He was warned that his failure to attend may result in a decision being taken in his absence, including dismissal.
7. The Tribunal considered that it was entitled to dismiss the application under Rule 27(2)(a) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017. However, having considered the papers provided by the Parties, the Tribunal was satisfied that it was more appropriate to proceed with the Application in the absence of the Applicant under Rule 29.
8. The Tribunal accepted that Regulation 48 applied to this tenancy. The Deposit was paid prior to any approved scheme coming into operation. The approved schemes became operational on 2 July 2012. As such, the Respondent's duty under Regulation 3 did not come into effect until 13 November 2012. By that date, on the Applicant's own pleadings, the Respondent had complied.
9. It follows that the Tribunal determined that the Applicant did not breach her duty under Regulation 3. The Tribunal dismissed 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.**

# Andrew Upton

**6 January 2026**

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**Legal Member/Chair**

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**Date**