



**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/25/2493

Re: Property at 3/4 Murieston Road, Edinburgh, EH11 2JJ ("the Property")

Parties:

Mr Benjamin Pirie, 11 collier place, Edinburgh, EH16 4PZ ("the Applicant")

Mr Richard Philips, 2 cluny place, Edinburgh, EH10 4RL ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision

At the Case Management Discussion ("the CMD) which took place by telephone conference on 25 November 2025 both the Applicant and the Respondent were present.

Prior to the CMD the Tribunal had received the following representations from the parties –

- Emails from the Respondent dated 22, 25 and 28 October 2025 with attachments.

Background

The Tribunal noted the following background:-

- The Respondent previously leased the Property to Panagiota Atanasova and Mariyah Haroon ("the Original Tenants") in terms of a Private Residential Tenancy Agreement ("the PRT") dated 25 July 2021.
- Thereafter by Assignment dated 26, 27 and 29 April 2024 and with the consent of the Respondent, the Original Tenants assigned the PRT to Panagiota Atanasova and the Applicant with effect from 4 May 2025.
- On 2 May 2024 the Applicant paid to the Respondent £954 being the Applicant's share of the rent to 31 May 2024 (£444) and a deposit of £510.
- The Applicant's deposit was protected in an approved scheme, namely Safe Deposits Scotland ("SDS"), from 18 July 2024.
- The PRT ended on 5 June 2025.

None of the foregoing is in dispute.

The CMD

At the CMD the parties made the following additional oral submissions in response to questions from the Tribunal –

By the Applicant

- i. He accepted the deposit required to be lodged in an approved scheme within 30 working days from the beginning of the tenancy, namely 4 May 2025.
- ii. He accepted the deposit therefore required to be lodged in an approved scheme by 14 June 2025 meaning that the period relevant to consider was from 15 June 2025 to 17 July 2025 inclusive being 23 working days.
- iii. At the end of the PRT the Applicant received some of the deposit back following an adjudication by SDS.

By the Respondent

- i. In the circumstances arising the Respondent instructed a Tenant Changeover request with SDS. The Respondent did this on 21 May 2024.
- ii. However, the SDS process does not allow an incoming deposit to be paid into the scheme until the deposit of the outgoing tenant is taken off. The incoming and outgoing deposits are linked.
- iii. Accordingly the Respondent could only assign the Applicant's deposit once the deposit of Ms Haroon had been removed.
- iv. Physically, the Respondent went onto the SDS portal where the deposits of the Original Tenants are showing as protected. He then selects the tenant who is leaving and hits a button. This generates an email from SDS to the outgoing tenant asking whether the refund position is accepted or not. Once there has been an acceptance the exiting tenant's deposit is refunded and the Respondent would receive an email from SDS advising that the new deposit can be transferred in.
- v. By 18 June 2024 the Applicant had received no email from SDS so he cancelled that Changeover Request and tried again. He thought his request was stuck in the system as Ms Haroon, the outgoing tenant, had not received an email either.
- vi. It is unusual for an exiting tenant not to want their deposit back quickly.
- vii. In the event Ms Haroon had to login to SDS to accept the proposal rather than await an email and the Respondent finally managed to complete the Changeover Request on 18 July 2024.
- viii. The Respondent did not accept he was in breach of the Regulations.

Reasons for Decision

Regulation 3 of the Regulations states:-

*"(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;"*

Regulation 10 of the Regulations states:-

"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;"

The Respondent was the landlord under the PRT.

The PRT is a relevant tenancy under the Regulations.

The Regulations require a landlord to lodge a tenancy deposit with an approved scheme within a period of 30 working days from the beginning of the tenancy,

The Tribunal takes a landlord's failure to comply with the Regulations seriously. However, in this instance it is clear from the vouching provided by SDS that the "Tenant Changeover" request was first submitted by the Respondent on 21 May 2024, was cancelled and resubmitted on 12 July 2024 and cancelled and resubmitted again on 17 July 2024, with the latter request being completed.

The Tenant Changeover part of the deposit lodging process was likely not anticipated to operate quite as it does in practice when the Regulations were written 14 or so years ago. The requirement to have an outgoing tenant accept a proposal as to what should happen to his/her deposit before the incoming tenant's deposit is allowed to be received gives rise to the possibility of delay if the outgoing tenant procrastinates in accepting the proposal made despite the landlord's best endeavours to comply with the 30 working day timeframe prescribed.

Here the Respondent attempted to deal with the Applicant's deposit within the time period of 30 working days from the commencement of the assigned PRT on 4 May 2024. The Tribunal is therefore not satisfied that the Respondent failed to comply with any duty under Regulation 3 as required by Regulation 10 and therefore refused the application.

In the event that there could be said to be a technical breach of any duty under Regulation 3, any sanction payable in terms of Regulation 10 would have been set at £0.

Decision

The application is refused.

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.

Gillian Buchanan

Legal Member/Chair

Date: 25 November 2025