



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

Chamber Ref: FTS/HPC/PR/25/2850

Re: Property at 115/2 Dalkeith Road, Edinburgh, EH16 5AJ (“the Property”)

Parties:

Mr Samuel England, 21 Regent Terrace, Edinburgh, EH7 5BS (“the Applicant”)

Mr Mark Scobie, 1 Lochrin Square, 92 Fountainbridge, Edinburgh, EH3 9QA (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an Order for Payment by the Respondent to the Applicant in the sum of One Thousand, One Hundred and Ninety Pounds (£1,190).

- **Background**

1. The Applicant applied to the Tribunal for an order by application dated 2 July 2025. Accompanying the application was a copy of the Tenancy Agreement and evidence of the start of the tenancy. The application was accepted for determination on 10 July 2025. It was served on 24 October 2025.
2. There were no representations made by the Respondent.

- **The Case Management Discussion**

1. At the case management discussion, the Applicant appeared. There was no appearance by or for the Respondent.

2. The Applicant set out the position, namely that he was one of four co-tenants in the Property. They had all equally contributed to a deposit. The amount he had paid was Seven Hundred Pounds (£700). The deposit was paid on 11 September 2024. It had not been secured within a scheme until 5 January 2025.
3. He recovered most of his deposit at the conclusion of the tenancy on 18 June 2025.
4. The Respondent appeared to be a professional landlord. He had other properties.
5. The Applicant was asked on what basis he sought 1.7 times the amount of the tenancy. He said this was on the basis of the period of time that had been spent in the Property.

- **Findings in Fact**

1. The Applicant was one of four in total co-tenants of the Property.
2. He paid the sum of Seven Hundred Pounds (£700) by way of deposit for the Property.
3. The deposit was paid on 11 September 2024.
4. The deposit was not placed within a secure deposit scheme until 5 January 2025, outwith the period when it was due to be paid.
5. The tenancy deposit was in part returned to the Applicant.

- **Reasons for Decision**

1. The Tribunal were satisfied that a deposit was taken. The Tribunal were also satisfied that the deposit was not placed within a secure deposit scheme within the requisite period of time.
2. Having decided that the Respondent had failed to comply with the duty under Regulation 3(1) of the 2011 Regulations to pay the tenancy deposit into an approved deposit scheme within 30 working days of the start of the tenancy, the Tribunal thereafter were obliged to make an order requiring the Respondent to make payment to the Applicant in terms in Regulation 10 of the 2011 Regulations.
3. The Tribunal is required to consider the sum which the Respondent should be ordered to pay to the Applicant, which could be any amount up to three times the amount of the tenancy deposit. The amount of any order is the subject of judicial discretion after careful consideration of the circumstances of the case, as per the decision of the Inner House of the Court of Session in the case of *Tenzin v Russell* 2015 Hous.LR.11.

4. In considering the appropriate level of Payment Order to be made in the circumstances, the Tribunal considered the need to proceed in a manner which is fair, proportionate and just, having regard to the seriousness of the breach (Sheriff Welsh in *Jenson v Fappiano* 2015 GWD4-89).
5. The Tribunal noted the view expressed by Sheriff Ross in *Rollet v Mackie* ([2019] UT45) that the level of penalty should reflect the level of culpability involved. As Sheriff Ross noted at paragraph 13 of his decision: “The admission of failure tends to lessen the fault: A denial would increase culpability.”
6. The Respondent in this case did not respond to the application and accordingly failed to admit liability.
7. The Tribunal considered the various factors to be considered. The Respondent was a professional landlord. He failed, from having received the deposit, and thereafter taking into account the 30 working day period, to place the deposit into a scheme until 5 January 2025.
8. The requirement to pay the tenancy deposit into an approved scheme is intended to protect the deposit and offers protection for both parties in the event of any dispute at the end of a tenancy.
9. Taking into account the fact that the Respondent had failed to enter any response, that he was a professional landlord, that the deposit had been paid on 11 September 2024 but not secured until 5 January 2025, the Tribunal conceded that what was sought by the Applicant at 1.7 times the tenancy deposit should be granted, namely a sum of One Thousand, One Hundred and Ninety Pounds (£1,190).

- **Decision**

The Tribunal determined that the Respondent has failed to comply with his duty in terms of Regulation 3 of the Tenancy Deposit Schemes (Scotland) (Regulations) 2011 to pay a tenancy deposit to the scheme administrator of an approved scheme within the prescribed timescale. The Tribunal therefore makes an order requiring the Respondent to pay to the Applicant, the sum of One Thousand, One Hundred and Ninety Pounds (£1,190).

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.

Mark Thorley

12 December 2025

Legal Member/Chair

Date