Housing and Property Chamber
First-tier Tribunal for Scotland

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

Chamber Ref: FTS/HPC/PR/25/1661

Re: Property at 64 MILLSIDE TERRACE, PETERCULTER, ABERDEEN, AB14 0WD ("the Property")

Parties:

MISS AFIFA HOSSAIN, 1C FROGHALL GARDENS, ABERDEEN, AB24 3JQ ("the Applicant")

SANDEND INVESTMENTS LTD, MRS HILARY ESSON, 3 Hilltop Avenue, Cults, Aberdeen, AB15 9RJ; 3 Hilltop Avenue, Cults, Aberdeen, AB15 9RJ ("the Respondent")

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent had breached regulation 3 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 ("the 2011 Regulations").

The Tribunal therefore determined to make an order for payment in the sum of Fifty pounds (£50) Sterling.

Background

1 This is an application under rule 103 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 ("the Rules") and regulation 9 of the 2011 Regulations for a determination that the Respondent failed to comply with the duties in relation to the Applicant's tenancy deposit under regulation 3 of the 2011 Regulations.

2 The application was referred to a case management discussion ("CMD") to take place by teleconference on 20 October 2025. The Tribunal gave notice of the

CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers.

3 On 22 September 2025 the Tribunal received an email from the Respondent's representative, Easthaven Property Management, requesting a postponement of the CMD. The Applicant confirmed in writing that they had no objection. The CMD was therefore rescheduled to take place on 22 January 2026 by teleconference.

The CMD

4 The CMD took place by teleconference on 22 January 2026. The Applicant joined the call. The Respondent was represented by Miss Lauren Monroe of Easthaven Property Management.

5 The Tribunal explained the purpose of the CMD. The Tribunal noted from the written representations that the Respondent did not dispute they were in breach of the 2011 Regulations. The Tribunal therefore heard submissions from the parties on the aggravating and mitigating factors in this case to determine an appropriate level of sanction. The following is a summary of the key elements of the submissions.

6 The Applicant explained that she had experienced a good relationship with the Respondent and their representative. She had received an email from Safe Deposits Scotland ("SDS") stating that her deposit had been lodged late. That was her reason for making the application to the Tribunal. She felt it had to be addressed from an ethical point of view, even if the deposit was lodged only a day after the statutory deadline. The Applicant confirmed that the deposit had been dealt with by SDS at the end of the tenancy. The Applicant had received the deposit back minus a cleaning fee that the Applicant had agreed to. The Applicant did not suffer any harm because of the Respondent's breach of the regulations. It was the ethics of the situation that had led her to make the application. The Applicant did not require any monetary compensation. She was happy for the Tribunal to decide on an appropriate sanction.

7 Miss Monroe confirmed the Applicant's account of events. The Respondent acknowledged the deposit had been lodged late by one day. They had instructed Easthaven Property Management to manage the tenancy and would have had an expectation that their agent would have ensured compliance with their legal responsibilities as landlords. The Applicant had not suffered any hardship because of the breach. The parties had maintained an amicable relationship throughout the tenancy. The Respondent has a rental portfolio. This is the first time they have found themselves in breach of the 2011 Regulations. Miss Monroe did not think an award at the higher end of the scale was merited. She understood there had been a breach and the Tribunal had to make an award, but she asked that this be a low amount given the circumstances.

8 Both parties confirmed that they had no further evidence or submissions for the Tribunal and were content for a decision to be made on the information before it. Accordingly, having heard from the parties the Tribunal adjourned the CMD and determined to issue its decision in writing.

Findings in fact

9 The Respondent is the owners and landlord, and the Applicant was the tenant, of the property in accordance with a private residential tenancy agreement, which commenced on 18 July 2024.

10 The tenancy was fully managed by Easthaven Property Management on the Respondent's behalf.

11 The tenancy between the parties terminated on 8 March 2025.

12 The Applicant paid a tenancy deposit of £500 to the Respondent's representative on 8 July 2024.

13 The Respondent's representative registered the deposit with SDS on 26 August 2024.

14 The Respondent's representative paid the deposit over to SDS on 30 August 2024, which was one day after the statutory 30 working day deadline under regulation 3 of the 2011 Regulations.

15 The Applicant did not suffer any harm because of the late lodging of the deposit.

16 The deposit was adjudicated upon by SDS at the end of the tenancy. The Applicant received the deposit back with cleaning costs deducted which she agreed to.

17 The Respondent has a rental portfolio. This is the first time the Respondent has found themselves in breach of the 2011 Regulations.

Reasons for decision

18 The Tribunal considered it had sufficient information based on the documents produced and the submissions from the parties at the CMD to make relevant findings in fact and reach a decision on the application in the absence of a hearing under Rule 18 of the Rules. Both parties were content for the Tribunal to proceed on this basis.

19 The Tribunal considered the provisions of regulations 3, 9 and 10 of the 2011 Regulations:-

""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.

(2) The landlord must ensure that any tenancy deposit paid in connection with a relevant tenancy is held by an approved scheme from the date it is first paid to a tenancy deposit scheme under paragraph (1)(a) until it is repaid in accordance with these Regulations following the end of the tenancy.

(3) A "relevant tenancy" for the purposes of paragraphs (1) and (2) means any tenancy or occupancy arrangement— (a)in respect of which the landlord is a relevant person; and (b)by virtue of which a house is occupied by an unconnected person, unless the use of the house is of a type described in section 83(6) (application for registration) of the 2004 Act.

(4) In this regulation, the expressions "relevant person" and "unconnected person" have the meanings conferred by section 83(8) of the 2004 Act."

"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 by summary application and 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."

20 The Tribunal was satisfied that the tenancy between the parties was a relevant tenancy for the purpose of regulation 3(3) of the 2011 Regulations having had sight of the private residential tenancy agreement between the parties.

21 The Tribunal was further satisfied that the Respondent was in breach of regulation 3(1) of the 2011 Regulations regarding the Applicant's tenancy deposit. This was a fact that was not in dispute and was confirmed by the deposit protection certificate from Safe Deposits Scotland.

22 The Tribunal therefore considered regulation 10 which requires the Tribunal to order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit. There is no discretion afforded to the Tribunal under the 2011 Regulations. If the Tribunal finds the landlord in breach of regulation 3, it must make an order for payment.

23 The Tribunal had regard to the decision of Sheriff Cruickshank in *Ahmed v Russell (UTS/AP/22/0021)* which provides helpful guidance on the appropriate sanction. In doing so the Tribunal must identify the relevant factors, both aggravating and mitigating, and apply weight to same in reaching its decision. The Tribunal is then entitled to assess a fair and proportionate sanction to be anywhere between £1 and three times the sum of the deposit, which is this case is £1500. As per Sheriff Cruickshank at paragraph 40 of his decision in *Ahmed:-*

"*The sanction which is imposed is to mark the gravity of the breach which has occurred. The purpose of the sanction is not to compensate the tenant. The level of sanction should reflect the overall culpability in each case measured against the nature and extent of the breach of the 2011 Regulations".*

24 The Tribunal gave significant weight to the fact that the deposit had been lodged with the scheme only one day after the statutory deadline expired. The Applicant had been prompted to make the application after SDS highlighted the late lodging of her deposit. Until that point at the end of the tenancy, she had been unaware that there had been any breach of the 2011 Regulations. The Tribunal could understand her reasons for making the application, but ultimately she had suffered no real harm because of the breach. Her deposit was secured just over a month after the tenancy commenced and she had benefited from the protection of the independent dispute resolution service afforded to her by the deposit scheme, which is one of the primary aims of the 2011 Regulations.

25 The Tribunal could identify little in the way of aggravating factors in this case. The Respondent is clearly an experienced landlord and should be well aware of their duties in relation to tenancy deposits. However, the delay in securing the deposit with SDS was negligible. There was no suggestion of any attempt by the Respondent to deliberately circumvent the requirements of the 2011 Regulations. The Tribunal accepted that the Respondent has a rental portfolio and are generally compliant with their obligations regarding tenancy deposits. There was no evidence that the breach in relation to the Applicant's deposit is part of a systemic failure of compliance across their tenanted properties. The Respondent had engaged a professional letting agent to manage the tenancy on their behalf, with the expectation that the agent would ensure adherence to their statutory responsibilities as landlords. Whilst there had been a breach in this case, it was inconsequential and the Tribunal found it difficult to find much fault on the Respondent's part.

26 Accordingly the Tribunal concluded that the level of culpability was significantly low, when measured against the nature and extent of the breach. The Tribunal therefore determined that a fair and proportionate sanction in this case would be £50.

27 The Tribunal therefore made an order for payment in the sum of £50.

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.

Ruth O'Hare

22 January 2026

Legal Member/Chair **Date**