



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under The Tenancy Deposit Schemes (Scotland) Regulations 2011 as amended by The Tenancy Deposit Schemes (Scotland) Amendment Regulations 2019. (“the Regulations”).

Chamber Ref: FTS/HPC/PR/25/1976

Re: Property at 24 MILLROW, DUNBLANE, FK15 0EL (“the Property”)

Parties:

MR CHANDRA KIRAN, 6 Bogside, Dunblane FK15 0BW (“the Applicant”)

MRS ANGELA MCKAY, 36 Credon Drive, Airdrie North Lanarkshire, ML6 9RT (“the Respondent”)

Tribunal Member:

Martin McAllister (Legal Member) (“the tribunal”)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent pay the sum of TWO THOUSAND ONE HUNDRED POUNDS (£2100) to the Applicant.

Background

- 1. This is an application in respect of the alleged failure of the Landlord of the Property to comply with the Tenancy Deposit Regulations (“the Regulations”). The Application was received by the Tribunal on 8 May 2025.**
- 2. A case management discussion was held by teleconference on 2 February 2026 at which both parties participated.**
- 3. The application was considered along with another application in which the Applicant sought an order of payment in respect of the balance of the deposit which had not been returned to him.**

Preliminary Matters

- 4. The Applicant confirmed that the application concerned the failure of the Respondent to comply with the Regulations because she failed to protect a deposit of £900 by lodging it with an approved tenancy deposit scheme.**
- 5. The Respondent referred to her representations to the Tribunal dated 30 December 2025 in which she accepted that she had not complied with the scheme.**
- 6. The Legal Member explained the purpose of the case management discussion. Both parties confirmed that they had no further evidence to submit and agreed that there was no requirement for a hearing to be held to determine the application.**

Case Management Discussion

- 7. The Tribunal had regard to the following documents:**
 - i) The Application received by the Tribunal on 8 May 2025;**
 - ii) Short Assured Tenancy Agreement for the Property dated 9 November 2018;**
 - iii) Private Residential Tenancy Agreement for the Property dated 13 October 2019;**
 - iv) Emails between the Applicant and the Respondent.**
 - v) Emails from tenancy deposit schemes confirming that the tenancy deposit had not been lodged with an approved scheme.**
 - vi) Email submissions by the Respondent and the Applicant.**

The Tenancy

- 8. The Respondent said that the tenancy had started on 9 November 2018 when a short assured tenancy agreement had been entered into. She said that her husband had rental properties and she had used the style of rental agreement that he had used. The Respondent said that, in 2019, she remortgaged the Property and realised that she should have used a private residential tenancy agreement. She prepared such a document and referred to the tenancy agreement which had been submitted by the Applicant which was dated 14 October 2019.**
- 9. The Respondent said that the tenancy terminated on 12 February 2025. A notice to leave had been served on the Applicant because the Property was to be sold.**

The Tenancy Deposit

10. The short assured tenancy agreement made reference to a deposit of £900. It was accepted by parties that this was paid at the start of the tenancy.
11. The private residential agreement made no reference to a deposit. In an email sent by the Respondent to the Applicant on 14 October 2019, the Respondent stated: *“With regards to your deposit, just keep your original Tenancy Agreement which is proof of your deposit being paid at the time of our original signing. I couldn’t put it on the new contract as it would have looked as though I had received another deposit from you. I don’t want you to both worry your deposit was safe. I trust this clarifies it for you.....”*
12. The Respondent explained that she knew, when the private residential tenancy was done, that the deposit should have been lodged with one of the tenancy deposit schemes. She said that she did not think that she would have been able to do this a year after she had received it. She said that the deposit had been safely kept.
13. At the end of the tenancy, the Applicant asked that part of the rent for the last month be credited from the deposit held by the Respondent. The Respondent said that this was what happened and that the Applicant should not have done this because “as a matter of law” this should not have happened. The tribunal reminded her that it was her failure to comply with the law which had led to the Applicant making this application.
14. Parties agreed that part of the deposit, £436.50 was still held by the Respondent and that the Applicant had raised a separate application in relation to its return. The Respondent stated that she accepted that she was liable to pay this sum to the Respondent.

15. The Law

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.

(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.

9. (1) A tenant who has paid a tenancy deposit may apply to the sheriff 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 sheriff—

(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 sheriff 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 4

Submissions

16. The Applicant stated that he was looking for a payment of £2700, being the maximum sum allowed for under the Regulations.

17. The Respondent said that she had required to recover the Property to put it on the market because of financial reasons and ill health of her husband. She said that she should have made enquiries about paying the deposit into a scheme when she had become aware of the existence of the Regulation in 2019. She said that, although her husband had been a landlord for some years, he had not taken deposits from tenants.

18. The Respondent said that she was not happy with the condition of the Property at the termination of the tenancy and that was why she had not returned the balance of the tenancy deposit to the Respondent.

19. The Respondent said that she now accepts that the balance of the tenancy deposit, £436.50, should now be returned to the Applicant.

Findings in Fact

- a. The Applicant and the Respondent were parties to short assured tenancy for the Property dated 9 November 2018, and subsequently a Private Residential Tenancy Agreement dated 13 October 2019.**
- b. The Respondent is the registered landlord of the Property.**
- c. The tenancy commenced on 9 November 2018 and came to an end on 12 February 2025.**
- d. The Applicant paid a tenancy deposit of £900 to the Respondent.**
- e. The tenancy deposit was not lodged with an approved tenancy deposit scheme.**
- f. The balance of the tenancy deposit, amounting to £436.50 has not been repaid to the Applicant.**

Finding in Fact and Law

The tenancy deposit of £900 required to be paid to an approved tenancy deposit scheme by 21 December 2018 which was thirty working days from commencement of the tenancy.

Reasons

20. Matters were not in dispute: a short assured tenancy for the Property commenced on 9 November 2018. This was followed by a private residential tenancy agreement dated 13 October 2019. The tenancy terminated on 12 February 2025. A tenancy deposit of £900 was paid to the Respondent by the Applicant. The tenancy deposit was not lodged with an approved tenancy deposit scheme. The sum of £436.50, being the balance of the tenancy deposit, has not been repaid to the Applicant.

The Sanction

21. The creation of regulations to cover tenancy deposits was to protect tenants' funds and provide a structured process of dispute resolution. The Respondent received £900 as a tenancy deposit but did not lodge it with an approved deposit scheme within thirty working days of the beginning of the tenancy.

22. It is significant that the Respondent failed to return the balance of the deposit because she was not satisfied with the condition of the Property at the termination of the tenancy. In not complying with the Regulations, the Applicant denied the Respondent the benefit of using the adjudication procedures of a tenancy deposit scheme administrator.

23. The Regulations are clear in stating that, where there is a breach such as this, the Tribunal must make an order which requires a Landlord to pay a Tenant a sum not exceeding three times the amount of the tenancy

deposit. The amount is a matter of judicial discretion and must reflect what is a fair, proportionate and just sanction, having regard to the purpose of the Regulations and the gravity of the breach. It is a balancing act.

24. In this particular case, the tribunal had regard to the fact that the deposit was unprotected for the whole of the tenancy which lasted for six years and ninety three days.
25. The tribunal had regard to and adopted the approach of the Court in *Russell-Smith and Others v Uchegbu* (2016) SC EDIN 64 where the Sheriff had effectively stated there to be two broad aspects to the sanction. The first was consideration of the period of time the deposit was unprotected and the second is a sum to reflect a weighting taking into account the particular circumstances of the case including the landlord's experience etc.
26. The deposit was unprotected for all of the tenancy. It is considered that the appropriate starting point for the sanction should be £1,200.
27. The Respondent had an opportunity, when she realised the existence of the Regulations in 2019, to make enquiry to ascertain whether it would have been possible to lodge the deposit with an approved scheme at that time. The balance of the deposit due to the Respondent has not been returned but the tribunal noted that the Respondent now accepts that she requires to pay this. It is considered that, in the particular circumstances of the case, an award to reflect the appropriate weighting would be £900.
28. The tribunal determined to make an Order requiring the Respondent to pay the sum of £2,100 to the Applicant.

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.

Martin J. McAllister, Legal Member
2 February 2026