

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 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”)

Chamber Ref: FTS/HPC/PR/25/3388

Re: Property at 2/1 56 Kerrycroy Avenue, Glasgow, G42 0BQ (“the Property”)

Parties:

Mr Wojciech Wlazlak, 20 Lister Tower, East Kilbride, G75 0HL (“the Applicant”)

Z & E Lettings LTD, Mr Michael Mcfadden, 15 Ardnahoe Place, Glasgow, G42 0DQ (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £1300.00 be made in favour of the Applicant.

1. Background

1.1 This is an application under rule 103 of the Chamber rules whereby the Applicant sought an order for payment in respect of an alleged failure by the Respondent to comply with their obligations under the 2011 Regulations. The application was accompanied by, amongst other things, a copy of the written tenancy agreement between the parties.

1.2 Both the Respondent and Applicant lodged representations in advance of the Case Management Discussion.

2. The Case Management Discussion

2.1 The Case Management Discussion took place on 12 January 2026 by teleconference. Both parties attended personally and were not represented. The Tribunal had noted the contents of the representations as they referred

to the termination of the tenancy and issues regarding repairs and the condition of the property and advised parties that these were not believed to be relevant to the present application.

2.2 The Tribunal heard firstly from the Applicant. He confirmed that a deposit of £500.00, along with the first month's rent, was paid in cash to the Respondent on 28 July 2016. The deposit was not lodged with any third party scheme. The Applicant had made enquiries through a government service as to whether the deposit had been lodged and had been advised it had not. Since the tenancy agreement came to an end, he had not received repayment of the deposit. Given the length of time the deposit had remained unprotected, the Tribunal ought to consider making the maximum award.

2.3 The Respondent broadly took no issue that which was said by the Respondent. The deposit had not been lodged with a third party scheme due to administrative oversight. The deposit of £500.00 had been received in cash and deposited in the Respondent's bank account. Following the end of the tenancy agreement, the deposit had been retained by the Respondent due to alleged breaches of the tenancy agreement on the part of the Applicant. To avoid further instances of such an oversight occurring again, the Respondent had put in place a policy that no cash payments would be taken and deposits remitted to a scheme with the tenants present in person.

2.4 Given the admission by the Respondent as to the nature of the breach, the Tribunal did not believe a hearing was necessary and determined the application based on the paperwork before it and what was said at the Case Management Discussion.

3. Findings In Fact

3.1 The tenancy between the parties commenced on 28 July 2016.

3.2 A deposit of £500.00 was paid by the Applicant to the Respondent in connection with the tenancy.

3.3 The deposit was not lodged with an approved third party scheme nor was any information regarding the lodging of the deposit was given by the Respondent to the Applicant.

3.4 The deposit was held in the Respondent's bank account for the duration of the tenancy agreement.

3.5 The Applicant vacated the property on 27 July 2025 and has not received repayment of the deposit since that date.

4. Reasons For Decision

4.1 In terms of Regulation 3 of the 2011 Regulations, the Respondent was obliged to lodge the deposit with an approved third party scheme within 30 working days of the commencement of the tenancy and provide the

Applicant with the information contained within Regulation 42. The Respondent had failed to lodge the deposit within the prescribed time frame or provide the prescribed information to the Applicant.

4.2 Regulation 10(a) of the 2011 Regulations requires the Tribunal to make an order for payment in favour of the Applicant where the Respondent has breached the aforementioned duties. In that, the Tribunal has no discretion. The discretion of the Tribunal is limited to the amount the Respondent must pay which must not exceed three times the deposit taken. The Tribunal could therefore make an order for an amount up to £1500.00.

4.3 The Tribunal approached the matter of the amount by following the Upper Tribunal's reasoning in *Ahmed v Russell* 2023 S.L.T. (Tr) 33. The order for payment was a sanction upon the Respondent, not compensation for the Applicant, and ought to reflect the level of overall culpability measured against the nature and extent of the breach. In the present case, the deposit had remained unprotected for the entire duration of the Applicant's occupation of the property, amounting to some nine years. The Tribunal therefore considered this to be a serious breach of the 2011 Regulations. Furthermore, the Respondent had withheld repayment of the deposit and the Applicant had been deprived of the dispute resolution process afforded by its lodging with a third party scheme. The only mitigation that could be offered was the change in policy of the Respondent to ensure such a situation did not arise again. The Tribunal selected the sum of £1300.00 to be an appropriate sanction, short of the maximum available, given the seriousness of the breach.

4.4 The parties had lodged representations relating to the performance of other obligations under the tenancy agreement, including repairs. The Tribunal placed no weight on these matters, given that they were not relevant to extent of the breach or culpability of the Respondent, given the circumstances.

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.

Alastair Houston

Legal Member/Chair

Date 12 January 2026