



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”) and The Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”)

Chamber Ref: FTS/HPC/PR/25/0323

Re: Property at 47 1/R ESSLEMOUNT AVENUE, ABERDEEN, AB25 1ST (“the Property”)

Parties:

Mr KESTER UMEJIEGO, 1L, 8, WALLFIELD CRESCENT, ABERDEEN, AB25 2JT (“the Applicant”)

MRS SAJIDAH POOLE, 9 HILLTOP CRESCENT, WESTHILL, AB32 6PJ (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of £175 should be made by the Respondent to the Applicant.

Background

1. By applications received on 27 January 2025, the Applicant sought an order against the Respondent in respect of the Respondent’s alleged breach of her duties in relation to a tenancy deposit under Rule 103 and also a payment order under Rule 111 seeking return of the tenancy deposit (£505) plus compensation in respect of alleged bullying and harassment by the Respondent (£200) and recovery of financial losses (£293). Supporting documentation was submitted with the applications, including a copy of the Tenancy Agreement. The tenancy

was a Private Residential Tenancy which had commenced on 5 July 2024 and ended on or around 23 January 2025.

2. On 29 January 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance in respect of both applications in terms of Rule 9 of the Regulations. Papers were served on the Respondent by Sheriff Officer on 15 April 2025, requesting any written representations be lodged. Both parties were notified of the date and other details of the Case Management Discussion ("CMD") due to take place on 16 July 2025.
3. On 18 April 2025 and 26 April 2025, the Respondent lodged written representations in respect of the applications, together with supporting documentation. She admitted that the Applicant's tenancy deposit had been lodged late and explained the reasons for this. However, she disputed the Applicant's version of events or that he was entitled to the compensation sought in both applications. She also explained that the Applicant's tenancy deposit of £505 had already been returned to him in full. The Respondent's responses were circulated to the Applicant.
4. The CMD took place on 16 July 2025 at 2pm by telephone conference call in front of the Legal Member only. The CMD was attended only by the Respondent, Mrs Sajidah Poole, who was accompanied by her son, Mr Maher Salman, who is assisting her with this matter. The Legal Member delayed the commencement of the CMD for around 5 minutes to give the Applicant an opportunity to join late but he did not do so. The Legal Member also instructed the Tribunal Clerk to try and contact the Applicant by telephone, but he did not answer. Accordingly, the CMD proceeded in the absence of the Applicant.
5. There were introductions and introductory comments by the Legal Member, the purpose of the CMD was explained and there followed discussion regarding the Respondent's position in respect of both applications.
6. It was confirmed, in relation to this application that Mrs Poole accepted that she lodged the deposit late, although there were extenuation circumstances for this, including health reasons and she stressed that it was lodged with Safe Deposits Scotland (SDS) before the Applicant wished to leave. It was noted by the Legal Member that it was unfortunate that the Applicant appeared to have been given wrong information by SDS in their response to him dated 23 December 2024. They claimed not to hold a tenancy deposit in relation to his tenancy but the tenancy deposit certificate confirms that the deposit had, in fact, been registered with them on 6 December 2024, and received by them on 9 December 2024. Mrs Poole explained that there had been some confusion with SDS as the tenant before the Applicant had had a similar name and the deposit was still showing in that tenant's name. She had required to telephone them three times before this was sorted out. Mrs Poole stated that she always deposited tenancy deposits properly, since 2008, and has never had any problems with deposits previously. The Legal Member confirmed that, in such

cases, the Tribunal would assess the appropriate level of compensation taking into account such mitigating factors, but also the tenant's position in relation to the matter and factors put forward on their behalf.

7. It was also confirmed at the CMD that the full deposit of £505 had been returned to the Applicant, via the tenancy deposit scheme and considers that his claims against her were submitted prematurely. She stated that he had adopted an unreasonable stance in that he was demanding his tenancy deposit back the day after he left the Property. The deposit was in the scheme by then and the Applicant did not give time for the tenancy deposit procedures to take place before submitting his Tribunal applications. Mrs Poole mentioned the issues which had arisen with the tenancy and the difficulties and confusion she had experienced dealing with the Applicant. It was because of this that she had employed a third-party agent to conduct the 'check-out' procedures at the end of the tenancy, on her behalf, which she considered was the appropriate thing to do. As per her written representations, she denies the Applicant's allegations regarding her conduct towards him or that he is due any compensation/payment in relation to the payment application.
8. The Legal Member confirmed that she had noted the Respondent's position in respect of both applications and normally, the Applicant would have been asked for his comments on her position at the CMD. However, as he had failed to attend the CMD, his position was unknown and it may be that he had decided not to proceed with the applications. It was accordingly explained that the Tribunal would seek confirmation from the Applicant by way of a formal Direction as to his position in respect of these applications, before deciding on next procedures. It was explained that a time limit would be imposed for his response and if no response is received, the applications would progress no further. On the other hand, if a response was received and a satisfactory reason for the Applicant's failure to attend the CMD, it was explained that there may be further procedure, which could include a further CMD or hearing, in which case the Respondent would be notified and perhaps asked for further response in writing. There was some further brief discussion regarding procedural matters. Mrs Poole and Mr Salman were thanked for their attendance and the CMD concluded.
9. The outcome of the CMD was accordingly that both applications were adjourned for a Direction to be issued to the Applicant and his position in respect of the applications clarified.

Directions and Further Procedure

10. Following the CMD, a CMD Note was issued to both parties detailing the above discussions. A Direction dated 16 July 2025 was also issued to the Applicant in the following terms:-

"NOTICE TO THE PARTIES

The Tribunal, on its own initiative and for the purpose of making inquiries, give the following Direction to the Applicant/Respondent as to the conduct and progress of this Application in terms of Section 16 of Schedule 1 to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017:

The Applicant is required to confirm to the Tribunal in writing:-

1. *If he wishes to withdraw these applications, or either of them, or if he wishes to proceed; and*
2. *If he wishes to proceed:-*
 - (i) *his explanation for his failure to attend the Case Management Discussion ("CMD") on 16 July 2025 at 2pm, together with any supporting documentation, such as a medical report; and*
 - (ii) *written representations further explaining his position in respect of both applications, given the written responses and documentation lodged by the Respondent prior to the CMD and the discussions which took place at the CMD as outlined in the CMD Note.*

The documentation specified above should be lodged with the Chamber no later than 14 days from the date of this Direction being issued to the Applicant."

11. On 23 July 2025, the Applicant emailed the Tribunal confirming that he did wish to proceed with both applications and provided medical reasons for his failure to attend the CMD, together with supporting documentation in that regard. He also lodged detailed written representations, responding to the Respondent's representations, made before and at, the CMD, together with some further supporting documentation, including some photographs and copy communications between the parties.
12. The Legal Member was satisfied that the Applicant had established good reason for his failure to attend the CMDs and decided that it was appropriate to set down further procedure and for an Evidential Hearing to be scheduled.
13. On 29 July 2025, further written representations were lodged by the Respondent, updating her original written representations in response to the further representations from the Applicant. She also lodged some further supporting documents, including further copy messages between the parties.
14. On 2 August 2025, the Applicant lodged further written representations in response, together with further supporting documentation, including copy messages between the parties.
15. A second Direction was subsequently issued to parties, dated 4 August 2025, in the following terms:-

"NOTICE TO THE PARTIES

The Tribunal, on its own initiative and for the purpose of making inquiries, give the following Direction to the Applicant/Respondent as to the conduct and progress of this Application in terms of Section 16 of Schedule 1 to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017:

The Applicant and Respondent are required to provide:-

- 1. Any further written submissions, documentation or further evidence, in support of their positions in respect of these applications; and*
- 2. Details of any witnesses that the parties wish to call to give evidence at the Evidential Hearing to be fixed in respect of these applications, and to make arrangements for the attendance at the Hearing of any such witnesses;*

The documentation referred to above must be lodged with the Tribunal Administration no later than 14 days prior to the Evidential Hearing to be fixed in respect of this application."

16. No further substantive communications were received from parties prior to the Evidential Hearing which was subsequently scheduled to take place on 15 January 2026 by telephone conference call.

Evidential Hearing

17. The Evidential Hearing took place on 15 January 2026 at 10am, by telephone conference call, and was before both Members of the Tribunal. Both parties were in attendance at the hearing and the Respondent, Mrs Sajidah Poole, was again accompanied by her son, Mr Maher Salman, who was representing and supporting her. Neither party had any witnesses or late paperwork to lodge and had both had sight of all prior documentation lodged by the other party. The process to be followed was explained and the Evidential Hearing proceeded, with both parties giving evidence on their own behalf and answering questions from the other party and from the Tribunal Members.
18. Both parties confirmed at the outset that the pertinent facts were agreed, namely that the tenancy had started on 5 July 2024 and ended on 23 January 2025; the tenancy deposit paid by the Applicant had been £505 and it was deposited late with SDS by the Respondent on 9 December 2024; and that the Applicant had received the full deposit back via the scheme, following the end of the tenancy.

Evidence from Mr Kester Umejiego – the Applicant

19. Mr Umejiego stated that he was claiming compensation because the Respondent did not protect his tenancy deposit. She kept complicating issues. He sought advice from Shelter Scotland and CAB and they advised him in relation to making this application. He asked the Respondent to forward the deposit number. She refused and stated that he did not know the law. He was

having a difficult time at work and this affected his mental health, caused him stress and this was putting his job at risk. He had moved to the UK in 2022 and worked for the NHS. He had a previous tenancy to this one. He had had no plans to make trouble with the Respondent. She was simply not willing to release his tenancy deposit to him. When he gave notice that he was moving out, he asked for his full deposit back. She said that she would first have to see the property. She then got an inventory done through a letting agent and said that she was wanting to deduct £65 from the deposit for the costs of cleaning the hob. He disagreed with this and had an issue with the inventory produced being in black and white, rather than colour. He confirmed that he did get his full tenancy deposit back in the end, around February/March 2025, but the delay caused him difficulties. He was moving into another private let and had to tell the new landlord of the issues he had getting this deposit back. Fortunately, the new landlord agreed just to take a £100 deposit in the circumstances. Mr Umejiego did not want to go to the Tribunal but thinks this was the only way to secure the return of his full deposit. He thinks maximum compensation is due.

Evidence from Mrs Sajidah Poole – the Respondent

20. Mrs Poole stated that it was not just the Applicant whose mental health had suffered through this. She had also had a hard time. Reference was made to her age, health issues and the various scans and tests she was undergoing at the relevant time. Her failure to lodge the deposit in a scheme on time was due to these extenuating circumstances. However, on realising her oversight, the deposit had been lodged with SDS within 9 days which she considered a reasonable timescale. She had not refused to give the Applicant the deposit number. She had told him to telephone SDS for the information. She had telephoned SDS several times regarding the matter as there had been confusion caused due to a typo in the name of the tenant stated in SDS's records which had resulted in them not being able to trace the Applicant's deposit. This had, however, not been her error. She understood that the agent had telephoned the Applicant to confirm the position to him. Mrs Poole stated that she had been a landlord since 2008 and has never had any issues with tenancy deposits previously, as she always lodges these in the tenancy deposit schemes. She has used SDS and also MDS previously. Apart from this property, Mrs Poole has one other property that she lets out in Aberdeenshire. She stated that she thought the Applicant was very nice and denies the allegations he has made about her treating him badly. She has had tenants from all different countries over the years and has never had this type of situation happen before. She does not consider that the Applicant should be due anything like the maximum compensation he is seeking.
21. As to return of the tenancy deposit to the Applicant, this was all dealt with properly through SDS. She thought the Applicant was being unreasonable wanting his deposit back immediately on moving out of the property. In response to the Applicant's comments on this, Mrs Poole referred to the fact that she has lodged both the black and white, and the colour, version of the tenancy. She explained that the same person at her letting agents had prepared

the move-in inventory and the check-out inventory. Mrs Poole considered that she would have been entitled to retain around £200 from the tenancy deposit due to damage to the cooker and the costs of painting and cleaning. She had initially intended to restrict this to £65 for cleaning costs. However, because the Applicant was being un-cooperative and she felt she was being blackmailed by him regarding the Tribunal process, she decided to just instruct SDS to release the full deposit to him. However, the Applicant had already gone ahead and submitted his paperwork to the Tribunal.

22. Mr Umejiego asked Mrs Poole why she had not used the letting agent from the outset when she was aware of her health problems and age. Mrs Poole explained that she was not anticipating problems at the outset and was experienced in letting out her properties. She only instructed the letting agent towards the end of the tenancy as she was finding it so difficult to deal with the Applicant. Mr Umejiego also asked why Mrs Poole had not given him the deposit number when he had requested this, prior to 9 December 2024, in response to his emails and why she had instead told him to telephone SDS. Mrs Poole reiterated her position, as stated in paragraph 20 above.

Summing-up

23. Neither party had anything further to add in summing-up.
24. The Tribunal Members adjourned to consider the application in private and, on re-convening, confirmed that their decision in the matter would follow in writing, once the Tribunal had fully considered matters.

Findings in Fact

1. The Respondent is the owner and landlord of the Property.
2. The Applicant was the tenant of the Property by virtue of a Private Residential Tenancy commencing on 5 July 2024 and which ended on or around 23 January 2025, following the Applicant giving notice.
3. The Applicant paid a tenancy deposit of £505 to the Respondent at commencement of the tenancy.
4. The tenancy deposit was lodged in a tenancy deposit scheme with Safe Deposits Scotland on 9 December 2024, having been registered with the scheme on 6 December 2025.
5. The tenancy deposit was lodged late in terms of the 2011 Regulations by a period of just less than 4 months.

6. Safe Deposits Scotland advised the Applicant on 23 December 2024, in error, that his tenancy deposit was not lodged with them.
7. This application was submitted to the Tribunal by the Applicant on 27 January 2025.
8. A dispute initially arose as to the full return of the tenancy deposit to the Applicant.
9. The Respondent thereafter instructed Safe Deposits Scotland to return the full deposit to the Applicant.
10. The full deposit of £505 was returned to the Applicant in or around March 2025.
11. The Respondent admits the breach of the 2011 Regulations but put forward mitigating circumstances.

Reasons for Decision

1. The application was in order and had been submitted timeously to the Tribunal in terms of Regulation 9(2) of the 2011 Regulations [as amended to bring these matters within the jurisdiction of the Tribunal], the relevant sections of which are as follows:-

“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 42.”

Regulation 3 [duties] referred to above, is as follows:-

“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.”

2. The Tribunal was satisfied from the documentation before it, and the oral evidence of parties, that the Respondent was under the duties outlined in Regulation 3 above and had failed to ensure that the deposit paid by the Applicant was paid into an approved tenancy deposit scheme within 30 working days of the start of the tenancy, contrary to Regulation 3 of the 2011 Regulations. The Respondent had lodged the deposit in a scheme on 9 December 2024, around 5 months after the start of the tenancy. It was therefore lodged just less than 4 months late in terms of the Regulations (given the 30 *working* days time limit. There was no dispute between the parties as to the pertinent facts. The Tribunal considered both parties to have been credible in their evidence to the Tribunal and also to have been consistent in their respective positions throughout the proceedings.
3. The Tribunal considered the explanation put forward by the Respondent for her late lodging of the deposit and was satisfied that there were extenuating circumstances related to her health at the relevant time which was causing her concern and had led to her oversight. The Tribunal was also satisfied that there had been no requirement, or duty, on the Respondent to employ a letting agent to deal with the tenancy deposit matters on her behalf, as had been suggested by the Applicant. The Tribunal had no reason to doubt that the Respondent had been letting property for some years, was an experienced landlord, and had not previously had any difficulties with regard to the tenancy deposit obligations upon her.

4. It was clear that tenancy-related disagreements had arisen between the parties during the tenancy and that these had culminated in the Applicant giving notice to the Respondent on 23 December 2024. The Applicant had previously raised the issue of his tenancy deposit with the Respondent, as a consequence of which the Respondent appears to have realised her oversight and arranged to place the Applicant's tenancy deposit in the SDS scheme on 9 December 2024, having registered the deposit with them on 6 December 2024. The Applicant considered that the Respondent had deliberately withheld information from him regarding the deposit registration number but the Tribunal accepted the Respondent's explanation as to the efforts she had made with SDS to rectify the error in their records regarding the details under which the deposit was held. It was unfortunate that this error had resulted in SDS reporting to the Applicant on 23 December 2024 (the same date he gave notice) that they did not hold his deposit, when, in fact, they already did. On the other hand, the Tribunal also considered, having regard to the tone and content of some of the communications between the parties, that the Respondent could perhaps have clarified the position and perhaps put the Applicant's mind at ease regarding his deposit a little sooner.
5. The Tribunal considered the length of time the deposit was unprotected. While the tenancy itself was of relatively short duration, the deposit nevertheless remained outwith an approved scheme for most of that period. The Tribunal was satisfied, however, that the Respondent had taken the responsible step of placing the deposit in a scheme within a reasonable period of realising her earlier omission, particularly as disputes had already arisen between the parties regarding various matters. The Applicant had complained about the length of time it took to get his deposit back but the Tribunal considered the relevant timeframe to be the usual timeframe for a tenancy deposit scheme to complete their procedures regarding return of a deposit. The Tribunal was satisfied that, in the end, there had been no actual financial loss to the Applicant established, as he had had return of the full deposit. However, the Tribunal accepted that the matter had caused him some stress and inconvenience. Given that relations between the parties had deteriorated, he was understandably concerned that the Respondent may have retained control of the deposit and that there was the potential risk of him being unable to recover the deposit, or part of it, from her. Once the deposit was lodged in the approved scheme, the Applicant benefited from the statutory protections afforded by the scheme and was not entitled, as he incorrectly asserted, to demand immediate repayment of the deposit. The Respondent was also entitled to rely on the scheme's dispute resolution procedures. The Tribunal is satisfied, however, that the Respondent felt pressured into releasing the full deposit as a means of bringing matters to an end, rather than invoking the adjudication process available to her.
6. The Tribunal had regard to the decision of Sheriff Cruickshank in *Ahmed v Russell* (*UTS/AP/22/0021*) which provides helpful guidance on the assessment of an 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 in this case is £1515. As per Sheriff Cruickshank at paragraph 39 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 level of overall culpability in each case measured against the nature and extent of the breach of the 2011 Regulations.”*

7. The Tribunal took into account the fact that the deposit had been retained by the Respondent until shortly before the tenancy ended. The Respondent was an experienced landlord, but the Tribunal accepts that her health issues were a significant mitigating factor accounting for her failure to place the deposit in an approved scheme. The Tribunal also gave significant weight to the fact that the deposit had ultimately been paid over to SDS by the Respondent. However, the Respondent still had a duty to ensure she was fully compliant with her legal responsibilities as a landlord.
8. The Tribunal took no account, in assessing the sanction, of the other disputes which had arisen between the parties. The Applicant considered a maximum sanction should be payable. As the deposit here was £505, the maximum possible sanction was therefore £1,515. There is no minimum sanction stipulated in the 2011 Regulations. Leniency had been requested by the Respondent.
9. Weighing all of these factors, the Tribunal determined that this was not a breach which should attract a high sanction, nor just a nominal sanction for a technical-type breach of the Regulations. It was, however, a breach at the lesser end of the scale. In the circumstances, the Tribunal determined that the sum of £175 was the appropriate sanction. Accordingly, a payment order against the Respondent in favour of the Applicant of £175 would be made.
10. The Tribunal’s decision was unanimous.

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.

Nicola Weir

Legal Member/Chair

15 January 2026
Date

