



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

Chamber Ref: FTS/HPC/PR/25/3549

Re: Property at Flat 0/4, 620 Cumbernauld Road, Glasgow, G33 2ES (“the Property”)

Parties:

Mr Robert Docherty, 201 Budhill Avenue, Glasgow, G32 0PA (“the Applicant”)

Mr Brian Ruppung, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent in favour of the Applicant in the sum of £950.

Background

1. The Applicant submitted an application under Rule 103 for an order for payment on the basis that it was said that the Respondent had failed to comply with the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”).
2. By decision dated 21 August 2025, a Convenor of the Housing and Property Chamber having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Tribunal issued letters to the parties on 13 January 2026 informing them that a case CMD had been assigned for 19 February 2026, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient

information and considers the procedure to have been fair. The Tribunal instructed sheriff officers to serve the letter and a copy of the application on the Respondent. Sheriff officers reported on 15 January 2026 that they had attended at the Respondent's address but the Respondent was unknown at that address. The Tribunal served the Respondent with notification of the CMD by advertisement on the Tribunal website on 19 January 2026.

The case management discussion

4. The Applicant joined the conference call and represented himself. The Respondent did not join the conference call and the discussion proceeded in his absence. The Tribunal explained the purpose of the CMD.
5. The Applicant explained that his tenancy started on 9 March 2020 and it was around that time that he paid a deposit to the Respondent's letting agent in the sum of £950. He entered into a new tenancy on 15 October 2024 when his partner moved into the Property. His deposit was not refunded to him and was transferred to the new tenancy. The tenancy ended on 29 May 2025. After he vacated the Property, he corresponded with the Respondent's letting agent by email until 8 July 2025 about the return of his deposit. He received return of his deposit directly from the Respondent's letting agent on 8 July 2025. The Applicant understand that the Respondent's letting agent has done this in relation to other deposits. The Tribunal explained that although his contact was with the Respondent's letting agent, the 2011 Regulations apply only to landlords. The Applicant did not have any information about whether the Respondent had any other rental properties nor any information about any other instances when the Respondent failed to comply with the 2011 Regulations.
6. The Applicants contacted the approved schemes to find out whether their deposit had been secured and were advised that there was no record of his deposit being secured.
7. Having considered the papers and noted the information from the Applicant, the Tribunal decided that the Respondent breached the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the 2011 Regulations"). The Applicant was advised that the Tribunal would consider what level of payment order was appropriate and thereafter issue a written decision.

Findings in Fact

8. The parties entered into Private Residential Tenancy which commenced 9 March 2020. Around that time, the Applicant paid a deposit of £950 to the Respondent's letting agent.
9. On 15 October 2024, the Applicant entered into a new Private Residential Tenancy with the Applicant and is was agreed that the deposit paid in March 2020 would be transferred to the new tenancy.
10. The tenancy ended on 29 May 2025.

11. The Applicant's deposit was not secured in an approved scheme.
12. The Respondent failed to comply with his duty in terms of Regulation 3 of the 2011 Regulations in respect that the deposit paid by the Applicant was not paid to an administrator or an approved scheme within 30 working days as required.

Reason for Decision

13. The Tribunal took into account the application and supporting papers and the submissions made at the CMD. The Tribunal was satisfied that it could reach a decision on the application without a hearing under Rule 18 of the Rules and make relevant findings in fact based on the information provided by the Applicant. The Tribunal did not identify any issues to be resolved in this case that would require a hearing to be fixed.
14. The Respondent did not join the CMD and did not lodge any written representations. The 2011 Regulations came into force in March 2011 and the Respondent was obliged to comply with those regulations. The information before the Tribunal was that the Applicant paid the deposit to the Respondent's letting agent. The documentation provided by the Applicant showed that a deposit was paid and had not been secured in an approved scheme. The supporting papers also demonstrate that the Applicant made several requests of the Respondent's letting agent for payment and the deposit was ultimately repaid some 6 weeks after the tenancy ended. There was no information available about the Respondent's awareness regarding the status of the deposit nor whether the Respondent had ever breached the 2011 Regulations in the past.
15. The 2011 Regulations exist to protect a tenant's deposit and to provide the benefit of dispute resolution, if required.
16. The terms of Regulation 3 of the 2011 regulations are mandatory and state "*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.*"
17. The Tribunal was satisfied that the Respondent failed to comply with his duties in terms of that Regulation. It was the Respondent's duty to pay the deposit to the scheme administrator within 30 working days. The Tribunal was mindful that the deposit was not protected for the entirety of the tenancy. The Tribunal also took account of the fact that the Applicant asked for return of the deposit and recovered the deposit in full.

18. The Tribunal considered that its discretion in making an award requires to be exercised in a manner consistent with the case *Jenson v Fappiano (Sheriff Court) (Lothian & Borders, Edinburgh) 28 January 2015*. It must be fair, just and proportionate and informed by taking account of the particular circumstances of the case.
19. The Tribunal considered the decision of the Upper Tribunal (UTS/AP/19/0020) which states: *“Cases at the most serious end of the scale might involve: repeated breaches against a number of tenants; fraudulent intention; deliberate or reckless failure to observe responsibilities; denial of fault; very high financial sums involved; actual losses caused to the tenant, or other hypotheticals.”*
20. In the present case, the Respondent did not secure the Applicant’s deposit, but ultimately it was repaid. The Applicant therefore did not suffer a loss. There is no information about repeated breaches of the 2011 Regulations or fraudulent intent. The failure by the Respondent to secure the deposit deprived the Applicant of the adjudication process, although ultimately that was not required. The Tribunal viewed the breach of the 2011 Regulations as being at the less serious end of the scale. An appropriate sanction in these circumstances for failure to comply with the duties was to order the Respondent to pay the Applicant £950.

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 Irvine

Legal Member/Chair

Date 19th February 2026