



**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/25/3567

**Re: Property at 2-2 6 ARGYLL TERRACE, KIRN, ARGYLL & BUTE, PA23 8LR
("the Property")**

Parties:

**MISS DAISY COSSAR, 3/2 1 COLUMSHILL PLACE, ROTHESAY, ARGYLL AND
BUTE, PA20 0DL ("the Applicant")**

**Clyde Developments Ltd, Mr James English, 59 SPRINGFIELD PARK ROAD,
BURNSIDE, GLASGOW, G73 3RG ("the Respondents")**

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondents have breached regulation 3 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 ("the 2011 Regulations") by virtue of their failure to lodge the Applicant's tenancy deposit in an approved deposit scheme.

The Tribunal therefore made a payment order against the Respondents in the sum of £1500 under regulation 10 of the 2011 Regulations.

Background

- 1 This is an application for a determination that the Respondents have failed to comply with the duties under regulation 3 of the 2011 Regulations in respect of the Applicant's tenancy deposit. The application was made under regulation 9 of the 2011 Regulations and rule 103 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 ("the Rules").
- 2 An application under regulation 9 must be made within three months of the tenancy end date. The tenancy between the parties terminated on 8 June 2025.

The application was made on 29 August 2025. The application is therefore timeous.

- 3 The application was accepted and referred to a case management discussion (“CMD”) to take place by teleconference on 3 March 2026. The Tribunal gave notice of the CMD to the parties under rule 17(2) of the Rules. Said notice was served upon the Respondents by sheriff officers on 16 January 2026 and asked them to make written representations in response to the application no later than 4 February 2026.
- 4 No written representations were received from the Respondents in advance of the CMD.

The CMD

- 5 The CMD took place on 3 March 2026 by teleconference. The Applicant joined the call along with Mr Akorah. She confirmed that she wished Mr Akorah to represent her in the discussion. The Respondents did not join the call. The Tribunal noted that they had been given notice of the CMD and the opportunity to make written representations in response to the application. They had provided no explanation to the Tribunal for their failure to attend. The Tribunal therefore delayed the start time of the CMD for a short period before determining to proceed in their absence.
- 6 The Tribunal explained the purpose of the CMD and the legal test to be applied under regulation 10 of the 2011 Regulations.
- 7 Mr Akorah outlined the background to the application, stating that the Respondents had failed to lodge the Applicant’s deposit in an approved deposit scheme. The Respondents had retained the deposit in full at the end of the tenancy. Mr Akorah explained the impact of this on the Applicant. It had placed her in financial difficulty. Mr Akorah confirmed that the Respondents own numerous rental properties, and it could be reasonably assumed they had dealt with other tenant’s deposits in a similar manner.

Findings in fact

- 8 The Applicant and Respondents entered into a private residential tenancy agreement for the property, which commenced on 9 September 2023.
- 9 The Applicant paid a tenancy deposit of £500 to the Respondents at the commencement of the tenancy.
- 10 The Respondents did not pay the Applicant’s tenancy deposit into an approved tenancy deposit scheme within thirty working days of the commencement of the tenancy.
- 11 The tenancy between the parties terminated on 8 June 2025.

- 12 The Respondents withheld the Applicant's deposit of £500 for various costs, including cleaning and repairs to the property.
- 13 The Applicant was impacted financially because of the loss of her deposit. The Applicant had to seek financial assistance to cover her costs.
- 14 The Applicant resided in the property with her sister, who was also a tenant. The Applicant's sister paid a deposit to the Applicant. The Respondents did not secure the deposit in a tenancy deposit scheme.
- 15 The Respondents own multiple rental properties. The Respondents are an experienced landlord.

Reasons for decision

- 16 The Tribunal determined it had sufficient information to reach a decision following the CMD based on the documentary evidence and submissions from Mr Akorah on behalf of the Applicant. The Respondents chose not to participate in the CMD and made no representations. Accordingly, there was no contradictory evidence before the Tribunal, and no issues to be resolved that would require a hearing to be fixed.
- 17 Regulation 3 of the 2011 Regulations states that "*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*".
- 18 The Tribunal determined, based on the tenancy agreement produced, that the tenancy between the parties is a relevant tenancy for the purpose of Regulation 3. The Tribunal further determined based on the evidence before it that the Applicant had paid a tenancy deposit of £500 to the Respondents, and the Respondents had failed to pay the deposit into a tenancy deposit scheme within the statutory timescale. The Tribunal therefore found the Respondents to have failed to comply with the duties under regulation 3(a) and (b) of the 2011 Regulations.
- 19 Regulation 10 of the 2011 Regulations states "*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 Having been satisfied that the Respondents had failed to comply with the duties in Regulation 3, the Tribunal went on to consider what sanction to impose having regard to the particular facts and circumstances of the case. The application of the sanction must seek to act as a penalty to landlords and

ensure compliance with their statutory duties in relation to tenancy deposits. There is no discretion available to the Tribunal under Regulation 10. If the Tribunal finds the landlord in breach of Regulation 3, it must make an order for payment.

- 21 In determining an appropriate level of sanction, the Tribunal considered the decision from the Upper Tribunal for Scotland in *Ahmed v Russell* (UTS/AP/22/0021).
- 22 In *Ahmed*, Sheriff Cruickshank 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 £1500. 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.*”
- 23 The Tribunal considered that the Applicant’s deposit had been unprotected throughout the tenancy, a period of almost two years. As a result, the Applicant had been completely deprived of the protection of the 2011 Regulations. One of the purposes of the Regulations is to provide the Applicant with access to the independent dispute resolution offered by the deposit scheme, should any disputes arise at the end of the tenancy. The Applicant had not had the benefit of this. Instead, the Respondents had unilaterally made the decision to deduct the entirety of the Applicant’s deposit. The Applicant had then been put to considerable inconvenience by having to apply to the Tribunal.
- 24 The Tribunal also considered that the Respondents are experienced landlords, with multiple rental properties. However, as could be seen by the correspondence produced by the Applicant, they appear to have no knowledge of their duties in relation to tenancy deposits. This gave the Tribunal serious concern. The Tribunal considered that the Respondents ought to have had proper procedures in place to ensure compliance with the 2011 Regulations. The Applicant was entitled to have confidence that the Respondents would comply with their duties as a landlord and that her deposit would be kept secure.
- 25 The Tribunal concluded for the above reasons that there were significant aggravating factors that could be considered in the assessment of an appropriate sanction. On the contrary, the Respondents had offered nothing by way of mitigation as they had chosen not to participate in the proceedings. The Tribunal therefore determined that an award at the highest end of the scale would be justified in this case and made an order for payment in the sum of £1500.

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

3 March 2026

Legal Member/Chair

Date