



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014.

Chamber Ref: FTS/HPC/PR/25/3792

Re: Property at Flat B 166 Perth Road, Dundee, DD1 4JS (“the Property”)

Parties:

Mr Thomas Imrie, Flat 1/2, 368 Perth Road, Dundee, DD2 1EN (“the Applicant”)

Susan Murray, Kinnordy, Auchterhouse, Dundee, DD3 0QX (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in the absence of the Applicant)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent failed to comply with her duty as a Landlord in terms of Regulations 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”) as amended by The Housing (Scotland) Act 2014 (Consequential Provisions) Order 2017 by failing to pay the Applicant’s Tenancy Deposit to the scheme administrator of an Approved Tenancy Deposit Scheme grants an Order against the Respondent for payment to the Applicant of the sum of TWO HUNDRED POUNDS (£200) STERLING.

Background

1. This is an application for an order for payment for where it is alleged the Respondent has not paid a deposit into an approved scheme under the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”). The Application is made under Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The Application was accompanied by a Private Residential Tenancy Agreement between the Applicant and two other joint tenants and the Respondent commencing 1 January 2025, a screenshot of a payment of

£400 to the Respondent, an email dated 25 August 2025 from Safe Deposits Scotland, emails dated 26 August 2025 from Letting Protection Scotland and from My Deposits Scotland, a screenshot re a tenancy deposit for a former tenant from Safe Deposits Scotland and a text message from the Respondent to the Applicant.

3. On 27 September 2025, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 6 January 2026 the Tribunal provided a copy of the application and invited the Respondents to make written representations to the application by 27 January 2026. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 18 February 2026. This paperwork was served on the Respondents by Roger Ewen, Sheriff Officer, Aberdeen and the Certificate of Intimation was received by the Tribunal administration.
5. The Respondent lodged written submissions on 26 January 2026 explaining that her and her husband, who was deceased, jointly owned the Property. Her husband had managed the Property through their property management business which continued to manage the Property after his death in May 2025. She explained that there was no intention to withhold the deposit or avoid compliance with the tenancy deposit legislation. She regretted any inconvenience or uncertainty caused to the Applicant. She went on to explain there had been tenant changes during the tenancy which resulted in the Applicant’s name not being updated following this change in occupancy due to an administrative oversight.

Case Management Discussion

6. A Case Management Discussion (“CMD”) proceeded by way of teleconference call on 18 February 2025. The Respondent appeared on her own behalf. There was no appearance by or on behalf of the Applicant despite the CMD starting five minutes late to allow him to join the call. The Tribunal was satisfied the Applicant had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the Applicant and two other joint tenants and the Respondent and her husband commencing 1 January 2025, the screenshot of a payment of £400 to the Respondent, the email dated 25 August 2025 from Safe Deposits Scotland, the emails dated 26 August 2025 from Letting Protection Scotland and from My Deposits Scotland, the screenshot re a tenancy deposit for a former tenant from Safe Deposits Scotland and the text message from the Respondent’s agent to the Applicant. The Tribunal considered these documents.

8. Dr Murray accepted that she was in breach of the 2011 Regulations. She explained that the tenancy had been managed by her husband through his letting business I B Murray. After her husband's death the business employed Karen Thompson. The Tribunal noted that Ms Thompson had confirmed in a text message to the Applicant that his deposit has not been protected. Dr Murray explained that there had been changes in the tenants and confirmed she understood the Applicant's full tenancy deposit had been returned to him at the end of the tenancy.

Findings in Fact

9. The Applicant together with two joint tenants entered into a Private Residential Tenancy Agreement with the Respondent and her husband commencing on 1 January 2025.
10. The Applicant paid £400 towards the tenancy deposit.
11. The tenancy was managed by the Respondent's husband's letting business I B Murray. The Respondent's husband died in May 2025.
12. The Respondent failed to ensure the deposit was protected in terms of the 2011 Regulations. This was due to an administrative oversight.
13. The tenancy terminated on 15 August 2025. The Applicant received the return of his full deposit of £400 after the tenancy terminated.

Reasons for Decision

14. Despite the failure of the Applicant to appear the Tribunal considered his application and the papers he had lodged. There was very little disagreement between the parties on the relevant points namely that the tenancy deposit was not protected throughout the tenancy.
15. The Respondent's position was that this failure was due to an oversight in the letting agency she used to manage the tenancy. She accepted that she had failed in her duty to lodge the deposit with a scheme administrator. The Tribunal noted that the tenancy had lasted over 7 months and that the full deposit had been returned to the Applicant. The Tribunal accepted the Respondent's explanation which accorded with the documents the Applicant had lodged.

16. For the purpose of Regulation 9(2) of the 2011 Regulations, an application where a landlord has not paid a deposit into a scheme administrator must be made within three months of the tenancy ending. The Tribunal found that the application was made in time, the application being made in September 2025.

17. Regulation 3 (1) and (2) of the 2011 Regulations provides –

“(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.

The tenancy in this case was a “relevant tenancy” for the purposes of the Regulations. The deposit remained unprotected from 1 January 2025 until 15 August 2025. The current application was made on 3 September 2025.

18. The 2011 Regulations were intended, amongst other things to put a landlord and a tenant on equal footing with regard to any tenancy deposit and to provide a mechanism for resolving any dispute between them with regard to the return of the deposit to the landlord or tenant or divided between both, at the termination of a tenancy. They were designed to prevent any perceived “mischief” by giving a landlord control over the return of the deposit at the termination of a tenancy.

19. The amount to be paid to the Applicant is not said to refer to any loss suffered by the Applicant. Accordingly, any amount awarded by the Tribunal in such an application cannot be said to be compensatory. The Tribunal in assessing the sanction level has to impose a fair, proportionate and just sanction in the circumstances, taking into account both aggravating and mitigating circumstances, having regard to the purpose of the 2011 Regulations and the gravity of the breach. The Regulations do not distinguish between a professional and non-professional Landlord such as the Respondent. The obligation is absolute on the Landlord to pay the deposit into an Approved Scheme.

20. In assessing the amount awarded, the Tribunal has discretion to make an award of up to three times the amount of the deposit, in terms of Regulation 10 of the 2011 Regulations.

21. The Tribunal considered the Respondent had admitted her failure to comply with the 2011 Regulations. The Respondent had explained this was down to an oversight on her part, her husband having managed the tenancy. She wholly accepted she was at fault. The Respondent paid the £400 deposit back to the termination of the tenancy. The deposit had accordingly been unprotected throughout the seven months of the tenancy.
22. Despite the Tribunal being satisfied that the Respondent had failed to comply with his duties under Regulation 3 (1) of the 2011 Regulations, the purpose of the 2011 Regulations had not been defeated. The deposit had been repaid before the tenancy. The breach did not justify the maximum sanction
23. In all the circumstances the Tribunal considered that a fair, proportionate and just amount to be paid to the Applicants by way of sanction was the equivalent of half the amount of the deposit.

Decision

24. The Tribunal accordingly made an Order for Payment by the Respondent to the Applicant of £200.

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.

Shirley Evans

18 February 2026

Legal Member

Date