



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/25/2384

Re: Property at 29 Listloaning Road, Linlithgow Bridge, EH49 7QT (“the Property”)

Parties:

Mr Charles Galloway and Kirsten McAllan, 25 Avon Drive, Linlithgow Bridge, EH49 7QN (“the Applicants”)

Mr Fraser Langlands, Longcroft House, Longcroft, Linlithgow, EH49 7QG (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent failed to comply with his 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 Applicants’ Tenancy Deposit to the scheme administrator of an Approved Tenancy Deposit Scheme, grants an Order against the Respondent for payment to the Applicants of the sum of TWO THOUSAND ONE HUNDRED POUNDS (£2100) STERLING.

Background

1. This is an application received on 4 June 2025 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 Applicants and the Respondent commencing 3 August 2018, a bank statement from Halifax, text messages between the Applicants and the Respondent and screenshots from Safe Deposits Scotland and Letting Protection Scotland.
3. A Case Management Discussion (“CMD”) assigned for 21 October 2025 was postponed at the request of the Respondent due to a pre-arranged holiday. A new CMD was assigned to proceed on 10 April 2026. On 21 February 2026 the Tribunal advised parties that the CMD would proceed on 10 April 2026.

Case Management Discussion

4. A Case Management Discussion (“CMD”) proceeded by way of teleconference call on 10 April 2026. The Applicants both appeared with Ms McAllan electing to speak on their behalf. There was no appearance by or on behalf of the Respondent despite the CMD starting five minutes late to allow him to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
5. The Tribunal had before it the Private Residential Tenancy Agreement between the Applicants and the Respondent commencing 3 August 2018, the bank statement from Halifax, the text messages between the Applicants and the Respondent and the screenshots from Safe Deposits Scotland and Letting Protection Scotland. The Tribunal considered these documents.
6. Ms McAllan submitted she had checked with all three scheme administrators as to whether the deposit they had paid the Respondent at the start of the tenancy had been lodged. They had paid £700 deposit and the first month’s rent to the Respondent at the start of the tenancy on 3 August 2018. She explained that when they signed the tenancy agreement, she asked the Respondent about the deposit being lodged with a scheme administrator. The Respondent had replied that he did not do that and that none of his tenants had asked him about lodging their deposits. She explained they had been naïve and had not pursued that at the time, not being aware that the Respondent was legally obliged to lodge the deposit with a scheme administrator. The tenancy had terminated on 2 April 2025. The Respondent returned the deposit to the Applicants in full.

Findings in Fact

7. The Applicants and the Respondent entered into a Private Residential Tenancy commencing on 3 August 2018.

8. The Applicants paid the Respondent a tenancy deposit of £700 at the start of the tenancy.
9. The Respondent did not lodge the deposit with a scheme administrator. The Respondent failed in his obligations in terms of Regulation 3 of the 2011 Regulations.
10. The tenancy terminated on 2 April 2025. The tenancy deposit was unprotected throughout the tenancy.
11. The Respondent returned the whole of the tenancy deposit of £700 to the Applicants at the end of the tenancy.

Reasons for Decision

12. 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 tenancy having terminated on 2 April 2025 and the application having been received by the Tribunal on 4 June 2025.
13. 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.
14. The tenancy in this case was a “relevant tenancy” for the purposes of the Regulations. Although it is headed as a Short Assured Tenancy it is as a matter of fact and law a Private Residential Tenancy having commenced on 3 August 2018. The Tribunal accepted the submission of Ms McAllan that she had asked the Respondent about placing their £700 deposit with one of the

scheme administrators and that the Respondent had advised he would not do so. The deposit remained unprotected throughout the period of the tenancy.

15. 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.
16. The amount to be paid to the Applicants is not said to refer to any loss suffered by the Applicants. 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. The obligation is absolute on the Landlord to pay the deposit into an approved scheme.
17. 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.
18. The Tribunal had no information before it from the Respondent which may have allowed the Tribunal to consider any mitigating circumstances for the Respondent's failure. Despite the Respondent paying the £700 deposit back to the Applicants in full after the tenancy ended, the Tribunal was concerned that the deposit had been unprotected for nearly seven years and that the Respondent had not paid the deposit into a scheme administrator despite being queried about this at the beginning of the tenancy. It appeared to the Tribunal that this was a flagrant and wilful disregard of the 2011 Regulations by the Respondent.
19. 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 maximum sanction being three times the amount of the deposit.

Decision

20. The Tribunal accordingly made an Order for Payment by the Respondent to the Applicants of £2100.

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

Legal Member

Date: 10 April 2026