



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 9 of the Tenancy Deposit Scheme (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/25/3753

Re: Property at 0/2 54 Kingarth Street, Glasgow, G42 7RN (“the Property”)

Parties:

Ms Celia Phillips, 2/2 61 Bowman Street, Glasgow, G42 8LF (“the Applicant”)

Ms Jill Stevenson, 45 Montgomery Avenue, Beith, KA15 1EL (“the Respondent”)

Tribunal Members:

James Bauld (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should be ordered to make payment to the Applicants of the sum of ONE THOUSAND POUNDS (£1,000)

Background

1. By application dated 1 September 2025 the applicant sought an order in terms of Regulation 9 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 (“the 2011 Regulations”) in respect of an alleged failure by the respondent to comply with those regulations.
2. The application was accepted by the Tribunal on 4 September 2025 and referred for determination by the tribunal.
3. A Case Management Discussion (CMD) was scheduled to take place on 13 March 2026.

The Case Management Discussion

4. The Case Management Discussion took place on 13 March 2026. Both parties were in attendance.
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters. The tribunal asked various questions of the parties with regard to the application.
6. The tribunal explained to the parties the maximum award which could be made in terms of the 2011 Regulations.
7. The tribunal indicated that it would be entitled to utilise the power within regulation 17 of the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the tribunal rules”) and that the tribunal could make a final decision at the case management discussion without remitting the matter to a further full hearing.

Agreed matters of fact

8. Certain matters were agreed between the parties.
9. The applicants and respondent had entered into a tenancy agreement relating to the property
10. The tenancy had commenced on 16 January 2023 and had ended on 16 August 2025.
11. The rent was £600 per month.
12. A deposit of £600 had been paid by the applicant to the respondent.
13. The deposit was never lodged in any approved tenancy deposit scheme during the tenancy.
14. The deposit was repaid in full to the applicant at the conclusion of the tenancy

Summary of discussions

15. During the hearing, the parties were asked various questions by the tribunal member.

16. The applicant was asked by the tribunal to summarise the way in which she had been inconvenienced by the respondent's failure to lodge the deposit. She accepted that he had effectively not been inconvenienced at all by the failure but had been upset at the manner in which certain repairs were handled during the tenancy. She claimed that certain repairs had taken an excessive length of time. She accepted that the deposit had been returned in full at the end of the tenancy.
17. On being questioned by the tribunal, the respondent indicated she was not aware of the duties imposed upon landlords in terms of the 2011 Regulations. This was the first time she had acted as a landlord. She had only let out the flat after she had lost her employment and required to move in with her partner. She took no professional advice prior to becoming a landlord.
18. On further questioning she indicated that she had carried out some research on the Internet to find a copy of a lease agreement. She had used the lease agreement that she had found. This agreement bore to be a "short assured tenancy" agreement, a type of tenancy which has not been in use since December 2017. She was not aware that this type of tenancy was no longer available to use in Scotland.
19. It was pointed out to the respondent that the agreement itself contained a clause which made specific reference to the 2011 regulations and the requirement to lodge the deposit. The respondent indicated that she had not read that particular clause in the agreement
20. The respondent disputed the tenant's position relating to repairs at the property. It was her position that any repairs reported were concluded within a reasonable time.
21. At the conclusion of the hearing, both parties indicated that they were content for the tribunal to consider all the evidence that had been presented to the tribunal both orally and in writing and to make the decision in accordance with the relevant regulations.
22. The tribunal is grateful to the parties for their attendance at the hearing and their assistance in answering questions.

Discussion and decision

23. This application related to the failure of the Respondent to place a tenancy deposit within an approved tenancy deposit scheme. Landlords have been required since the introduction of the 2011 Regulations to pay tenancy deposits into an approved scheme within 30 working days of the commencement of the tenancy. In this case it was accepted by the Landlord that she had failed to do so. Accordingly, she was in breach of the duties contained in Regulation 3 of the 2011 Regulations. Those duties are twofold. There is a requirement to pay the deposit to a scheme administrator and the

requirement to provide a Tenant with specified information regarding the tenancy deposit. The Respondent failed in both duties.

24. Regulation 9 of the 2011 Regulations indicates that if a landlord does not comply with any duty in regulation 3, then the Tribunal must order that a landlord makes payment to the Tenant of an amount “not exceeding three times the amount of the tenancy deposit”.
25. Accordingly in this case the Tribunal is required to make an order for payment. The only matter to be determined by the Tribunal is the amount of the payment.
26. In this case the Tribunal carefully considered the evidence which had been produced by both parties. There was clear evidence, agreed and acknowledged by the respondent, that the respondent had failed to pay the tenancy deposit into the appropriate scheme throughout the entire period of the tenancy which had lasted for 31 months. The tribunal has taken no account of the alleged issues relating to repairs within the property during the tenancy.
27. The Regulations were introduced to safeguard deposits paid by Tenants. They were introduced against a background of Landlords abusing their position as the holder of deposit moneys. The parliament decided that it should be compulsory to put the deposit outwith the reach of both the Landlord and the Tenant to ensure that there was a dispute resolution process accessible to both Landlord and Tenant at the end of a tenancy and which placed them on an equal footing. The Regulations make it clear that the orders to be made by Tribunals for failure to comply with the Regulations are a sanction or a penalty
28. In this case, the Respondent was in clear breach of the 2011 Regulations.
29. The tribunal notes that in an Upper Tribunal decision, (*Ahmed v Russel* UTS/AP/22/0021 2023UT07) Sheriff Cruickshank indicates (at Para 38) that **“previous cases have referenced various mitigating or aggravating factors which may be considered relevant. It would be impossible to ascribe an exhaustive list. Cases are fact specific and must be determined on such relevant factors as may be present”** . The amount awarded should represent **“a fair and proportionate sanction when all relevant factors have been appropriately balanced”**.
30. The sanction to be imposed is intended to mark the gravity of the breach which has occurred. It should reflect the level of overall culpability in each case measured against the nature and extent of the breach of the 2011 Regulations. The tribunal is required to determine a fair and proportionate sanction based on the facts as recorded.
31. In this case, the deposit was unprotected for the entire period of the tenancy. The tenancy lasted for a period of 31 months. The tribunal does accept that

this appears to have been an isolated incident and notes that the respondent had never previously acted as a landlord has expressed remorse and has apologised for the failure. Ultimately, the entire deposit was returned to the tenant.

32. The tribunal takes the view that this a serious breach of the 2011 Regulations. The tribunal notes the explanation tendered by the respondent that she was unaware of the 2011 Regulations. However she failed to take any professional advice and she also failed to fully read the tenancy agreement which she presented to the applicant.
33. All landlords should be aware that deposits should be lodged. Ignorance of the law is not an excuse. The failure to lodge the deposit in this case was a serious breach
34. The tribunal is willing to accept the submission that the respondent simply made a mistake in this matter rather than being in wilful defiance of the purpose of the 2011 Regulations. The tribunal also notes that no actual prejudice occurred and in the final analysis, the purpose of the regulations was not defeated, and the deposit was returned to the tenant, in full, without dispute. The tribunal also notes the early acknowledgement by the respondent of the breach of the regulations in these proceedings
35. The tribunal was not persuaded that the award should be made at the maximum level available to the tribunal which based on the deposit being £600 would have been £1800. In the circumstances, the tribunal determines that the appropriate amount of the award to be made should be £1,000 which reflects the seriousness of the breach but acknowledges the partial mitigatory factors put forward by the respondent.
36. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

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.

James Bauld

Legal Member/Chair

13 March 2026
Date