



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Regulation 3 of the Tenancy Deposit
(Scotland) Regulations 2011**

Chamber Ref: FTS/HPC/PR/25/4663

**Re: Property at 1D Lennox Court, 22 Stockiemuir Avenue, Bearsden, Glasgow,
G61 3JN (“the Property”)**

Parties:

**Miss Audrey Gibson, 6B Lennox Court, 22 Stockiemuir Avenue, Bearsden, G61
3JN (“the Applicant”)**

**Ms Mhairi Kane, 17 Dirleton Gate, Bearsden, Glasgow, G61 1NP (“the
Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member) and David Fotheringham (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment should be made.**

Background

1. The Applicant lodged an application on the 29th October 2025 under Rule 103 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking a sum under the Tenancy Deposit (Scotland) Regulations 2011.
2. Lodged with the application, amongst other documents were :
 - a. Document from the Respondent to the Applicant confirming the start date of the tenancy
 - b. Utility bills to prove when occupancy began
 - c. Text from the Respondent to the Applicant dated 3rd October 2021 offering to return the deposit by bank transfer

- d. Email from Safe Deposit Scotland confirming the deposit was paid to them on 2nd February 2022.
3. The papers were served on the Respondent by Sheriff Officers on 4th February 2026.

Case Management Discussion

4. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant represented herself. The Respondent was on the call, but she wears hearing aids and was therefore represented by her friend, Lorraine Deegan.
5. The Chairperson introduced everyone and explained the purpose of a CMD in terms of Rule 17.
6. The Chairperson ascertained from the parties that the following facts were agreed:
 - The tenancy began on 1st July 2012
 - The tenancy ended on 31st July 2025
 - The Applicant paid a deposit of £390 to the Respondent on 1st July 2012
 - The deposit was lodged with Safe Deposits Scotland on 2nd February 2022
 - The deposit was returned in full to the Applicant in October 2025
7. Given that these facts were agreed the Tribunal considered that a Hearing was not necessary.
8. The Tribunal made enquiry in to why the deposit had not been lodged in an approved scheme until 2nd February 2022. Miss Deegan said that this was the Respondent’s only rental property. She had lived in it herself, but as she was living somewhere else she decided to rent it out. She did not advertise it for rent, she was approached by the Applicant’s parents and asked if she could rent it to the Applicant as a favour. She said that the Applicant did not sign and return the tenancy agreement.
9. Miss Deegan said that the Respondent served notice to quit on the Applicant in 2021. The Applicant did not leave and the Respondent consulted a solicitor. The solicitor advised that the deposit should be placed in an approved scheme and the Respondent then arranged to do so. The eviction did not go ahead at that time.
10. The Applicant said that she had signed and returned the tenancy agreement to the Respondent. She subsequently asked for a copy but the Respondent said that she did not have it.

Findings In Fact

- i. The parties entered in to a tenancy agreement for the property commencing on 1st July 2012;
- ii. The Applicant paid a deposit of £390 to the Respondent;
- iii. The Respondent did not pay the deposit in to an approved tenancy deposit scheme at that time;
- iv. In 2021 the Respondent served Notice to Quit on the Applicant;
- v. The eviction did not go ahead;
- vi. On 2nd February 2022 the Respondent paid the deposit to Safe Deposits Scotland;
- vii. The Applicant vacated the property on 31st July 2025;
- viii. Safe Deposits Scotland returned the deposit in full to the Applicant in October 2025.

Reasons For Decision

11. The Application has been brought under the Tenancy Deposit (Scotland) Regulations 2011, based on a failure of the Respondent in her duties under Regulation 3, and seeking a payment in terms of Regulation 10.

Regulation 3 is as follows:

3.—(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.

(3) A “relevant tenancy” for the purposes of paragraphs (1) and (2) means any tenancy or occupancy arrangement—

(a) in respect of which the landlord is a relevant person; and

(b) by virtue of which a house is occupied by an unconnected person,

unless the use of the house is of a type described in section 83(6) (application for registration) of the 2004 Act.

(4) In this regulation, the expressions “relevant person” and “unconnected person” have the meanings conferred by section 83(8) of the 2004 Act.

Regulation 10 is as follows:

10. 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.

12. There was no question of credibility or reliability to be determined. The parties were agreed on the facts.
13. Regulation 3 imposes an obligation on a landlord who has received a tenancy deposit in connection with a relevant tenancy and the obligation is to place it in to an approved scheme within 30 working days of the beginning of the tenancy.
14. The Tribunal has discretion in deciding what the Respondent should be ordered to pay. Serial offenders, i.e. landlords with multiple properties who do not place deposits in schemes are at the upper end of the scale. Renting out a property is a commercial decision/running a business, and there are laws and regulations in place to protect parties who enter in to tenancy agreements. These must be complied with. The reasons for the Regulations are to protect the tenant's deposit, as the money belongs to the tenant, and also to provide a fair and impartial mechanism for adjudicating on whether a deposit should be returned to a tenant, or some or all be retained by the landlord. The Tribunal has power to award a sum equivalent to up to three times the amount of the deposit.
15. The Tribunal considers this case to be at the lower end of the scale. The Respondent rents out only one property. She is not a serial offender. The tenancy began around the time that the Regulations came in to force. The deposit was placed in to an approved scheme as soon as the Respondent became aware that she should do so. The deposit was returned in full at the end of the tenancy. However, the duty is an absolute one in terms of the Regulations, and the deposit has been unprotected for a lengthy period of time. The Respondent should have been aware of her obligations as a landlord, she

should have researched them prior to renting out the property. The Tribunal considers that a penalty of £390 is appropriate.

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.

Alison Kelly

16/03/2026

Legal Member/Chair

Date