



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/25/3648

Re: Property at 1 Craignethan, Mountstuart Road Rothesay, Isle of Bute, PA20 9LF ("the Property")

Parties:

Mr Bryon Gibson, Bullerholes Cottage West, Montgreenan, Kilwinning, Ayrshire, KA13 7RL ("the Applicant")

Mr Marc Vanpee, 1 Craignethan, Mountstuart Road, Rothesay, Isle of Bute, PA20 9LF ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision

At the Case Management Discussion ("CMD"), which took place by telephone conference on 13 May 2026, the Applicant and the Respondent were both present.

Prior to the CMD the Respondent lodged written representations by emails dated 21 January 2026.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that -

Background

The Tribunal noted the following background –

- i. The Respondent leased the Property to the Applicant in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 21 July 2023 2022.
- ii. The deposit payable in terms of the PRT was agreed to be £1250 and was paid by the Applicant to the Respondent's Letting Agent, Rothesay Residential, on 29 June 2023.
- iii. Rothesay Residential lodged the deposit in a tenancy deposit scheme, namely My Deposits Scotland, late and it was only protected from 6 October 2023.

- iv. The Applicant vacated the Property and the PRT ended on 31 May 2025.
- v. This application is made under Regulation 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the Regulations").
- vi. The Applicant received the return of the deposit in full after the PRT ended.

None of these matters were in dispute.

The Case Management Discussion

In addition to the application the Tribunal had regard to the following oral submissions from the Applicant made in response to questions from the Tribunal:-

- i. The Applicant accepted that the deposit ought to have been lodged in an approved scheme within 30 working days of the beginning of the PRT all in terms of Regulation 3 of the Regulations.
- ii. The Applicant accepted that the last day for timeously lodging the deposit into an approved scheme was 31 August 2023.
- iii. The Applicant accepted that the deposit was at risk for 35 days being from 1 September 2023 to 5 October 2023, both inclusive.
- iv. That he received the deposit back in full. He applied for the deposit to be returned to him and the Letting Agent initially refused. The Applicant began an appeal and the deposit was eventually repaid. No adjudication by the tenancy deposit scheme was required.
- v. The Applicant did not deal with the Respondent but with Rothesay Residential, a representative of which claimed that the delayed lodging of the deposit was due to a bank holiday but the deposit remained protected in their client account.

The Respondent made the following submissions in response to questions from the Tribunal –

- i. Rothesay Residential dealt with the PRT entirely.
- ii. The Respondent owns and rents out three properties, all in Scotland.
- iii. The Property is managed by Rothesay Residential. He manages the other two properties himself.
- iv. He has owned at least some of the properties for 20 years.
- v. He does not know how many properties Rothesay Residential have under management nor whether residential letting is their primary business.

The Applicant made the following concluding submissions –

- i. Rothesay Residential's primary business is property letting in and around the Isle of Bute. He believes they have 100 properties under management.

Findings in Fact

The Tribunal made the following findings in fact –

- i. The Respondent previously leased the Property to the Applicant in terms of the PRT.
- ii. The PRT commenced on 21 July 2023.
- iii. Prior to the start of the PRT, on 29 June 2023 the Applicant paid to the Respondent per his letting agents, Rothesay Residential, the deposit payable in terms of the PRT, namely £1250.
- iv. Rothesay Residential lodged the deposit of £1250 into an approved scheme, namely My Deposits Scotland, on 6 October 2023.

- v. The Applicant vacated the Property on 31 May 2025.
- vi. The Applicant has recovered the deposit in full.
- vii. The Respondent is in breach of the Regulations.
- viii. The Respondent is a commercial landlord.
- ix. The Respondent delegated the entire management of the Property and the PRT to Rothesay Residential.

Reasons for Decision

The Tribunal takes a landlord's failure to comply with the Regulations seriously.

Regulation 3 of the Regulations states:-

*"(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;"*

Regulation 10 of the 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;"

The Respondent previously leased the Property to the Applicant in terms of the PRT.

The deposit paid by the Applicant to the Respondent in terms of the PRT was £1250. That amount was paid on 29 June 2023 to the Respondent's Letting Agent, Rothesay Residential.

The PRT is a relevant tenancy under the Regulations.

The PRT ended on 31 May 2025. This application is made timeously.

The deposit of £1250 was not timeously lodged with the scheme administrator of an approved scheme as required in terms of Regulation 3 of the Regulations.

The Regulations require a landlord to lodge a tenancy deposit with an approved scheme within a period of 30 working days from the beginning of the tenancy.

The start date of the tenancy was 21 July 2023. The deposit could have been lodged at any time on or before 31 August 2023 to comply with Regulation 3.

The deposit was lodged with My Deposits Scotland by Rothesay Residential on 6 October 2023, being 35 days late.

None of the above is in dispute between the parties.

In determining the amount payable by the Respondent to the Applicant in terms of Regulation 10 the Tribunal took into account the following:-

- i. That, having regard to the requirement to lodge the deposit in an approved scheme within 30 working days of the beginning of the tenancy, the deposit was unprotected for a period of approximately only 35 days.
- ii. The Respondent is a commercial landlord. He had delegated management of the property to Rothesay Residential.
- iii. Rothesay Residential is a commercial Letting Agent and, as such, ought to have been familiar and complied with the Regulations. They failed to do so.
- iv. The deposit was ultimately lodged into an approved scheme on 6 October 2023.
- v. The Applicant recovered the deposit in full at the end of the tenancy.
- vi. The risk to the Applicant was limited to the period from 1 September to 5 October 2023 when the deposit was unprotected.
- vii. The Applicant had the benefit of the adjudication scheme operated by My Deposits Scotland had recourse to that been required at the end of the PRT.

In all the circumstances the Tribunal considered the failure to pay the deposit into an approved scheme to be at the lower end of the scale of sanctions available to it.

The Tribunal therefore determined that, having regard to the foregoing, the Respondent must pay to the Applicant a sum of £250 by way of a penalty for the failure to comply with the Regulations. Such a penalty is proportionate, fair and just in the circumstances.

Decision

The Respondent is ordered to pay to the Applicant a sum of £250.

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.

Gillian Buchanan

Legal Member/Chair

13 May 2026
Date