



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section the Housing (Scotland) Act 2006 section 121 and Regulation 9 the Tenancy Deposit Schemes (Scotland) Regulations 2011**

**Chamber Ref: FTS/HPC/CV/25/4255**

**Re: Property at 88 Leadsid Road, Flat 3, Aberdeen, AB25 1TU (“the Property”)**

**Parties:**

**Mr Marcelo Pellicano Falleiros, SHIS QI 9 conj 10 cs 6, Brasilia, 71625-100, Brazil (“the Applicant”)**

**Miss Natalia Bravo Kilcullen, 101 Fonthill Avenue, Aberdeen, AB11 6TG (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Landlord is in breach of her obligations in terms of Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“Regulation 3”). The Respondent shall make payment to the Applicant in the sum of SEVEN HUNDRED POUNDS (£700) STIRLING**

**Background**

1. The Tribunal received an application from the Applicant dated 3<sup>rd</sup> October 2025 in terms of Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017.
2. On 31<sup>st</sup> March 2026, all parties were written to with the date for the Case Management Discussion (“CMD”) of 14<sup>th</sup> May 2026 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 21<sup>st</sup> April 2026.
3. On 2<sup>nd</sup> April 2026, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 2<sup>nd</sup> April 2026.

4. On 20<sup>th</sup> April 2026, the Respondent emailed the Housing and Property Chamber lodging a submission in which she admitted the breach and gave details of why it had not been lodged in an approved scheme.

#### The Case Management Discussion

5. A CMD was held on 14<sup>th</sup> May 2026 at 2pm by teleconferencing. The Applicant was present and represented herself. The Respondent was present and represented herself.
6. The Applicant explained his position as per the application. His landlord never put the deposit in a scheme. He said that at the end of the tenancy he did not receive his deposit back in full. He disputes that he should not have made any deductions from the deposit. He said that the Respondent has kept £385 of the deposit. The Tribunal said that if he is looking for the recovery of that amount then he would need to raise another application under Rule 111 as the Tribunal can only look to determine, at this CMD, if the deposit was lodged in an approved scheme within 30 days from the start of the tenancy and the level of penalty which should be issued in light of that. The Applicant said that he is looking into raising such an application.
7. The Respondent had given a substantial part of her evidence in her written submission. She said that she was not intending to let out the Property at that time. However, the Applicant was a friend of her friend. Her friend had said that the Applicant really needed a flat so she let her friend help her to let it out to the Applicant. At that time she had a significant and serious health condition which meant that she was not able to deal with the start of tenancy issues. Once she was better she forgot that she had to deposit it in an approved scheme. She said that the mistake was her own. She kept the deposit safe and the money was always available. She did consider that she was correct in not returning the full deposit due to works that needed to be done to the Property. She has since let out the Property again. She has now made sure that all her legal obligations have been met for the tenancy, this includes lodging the deposit in an appropriate scheme within the time limits.
8. The Tribunal found that the deposit had not been lodged in an approved scheme within 30 days from the start of the tenancy. The deposit was not lodged at all. Although the deposit was returned to the Applicant it was only partially returned. Had it been in a deposit scheme the scheme would have dealt with the dispute making a decision on whether it should be returned in full to the Applicant or not. The Regulations are there to protect both parties. The Respondent has to comply with her legal obligations as a landlord. As there was a clear and admitted breach the Tribunal considered the only option available to it was for it to issue a penalty. The Tribunal considered the appropriate penalty was a one times the deposit penalty taking into account that the deposit was never lodged in an approved scheme but that the Respondent had significant health issues and that she had admitted the breach in her submission

## Findings and reason for decision

9. A Private Residential Tenancy Agreement commenced on 1<sup>st</sup> September 2024. The tenancy ended on 9<sup>th</sup> September 2025.
10. A deposit of £700 was paid on 1<sup>st</sup> September 2024.
11. The deposit was not lodged within an approved deposit scheme within 30 days from the start of the tenancy.
12. The Respondent admits that the deposit was not lodged in an approved scheme within 30 days from the start of the tenancy. The deposit was not lodged in an approved scheme for the entire duration of the tenancy.
13. The Respondent had significant health issues at the time the deposit was due to be lodged. However, the Respondent did not put the deposit in a deposit scheme later on in the tenancy and did not arrange for anyone else to act on her behalf.
14. The Respondent has since let out the Property. She has ensured that she has lodged the deposit in time and complied with her legal obligations as a landlord.
15. The Respondent has failed to comply with the regulations to ensure that the deposit was lodged in an appropriate scheme within 30 days from the start of the tenancy. The Respondent has engaged with the Tribunal process to advise why this has happened and what steps have been taken to ensure that it will not happen again.

## Decision

16. The Respondent has a duty under Regulation 3 to place the deposit in an approved scheme within the specified time but failed to do so. The Respondent did engage with the Tribunal process to explain why the deposit was not lodged and what steps had been taken to prevent such a situation happening again. The Tribunal decided that a fair, just and proportionate sanction would be to order the Respondent to pay the Applicant one times the amount of the deposit (£700.00).

## **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.**

Gabrielle Miller

**Gabrielle Miller**

**14 May 2026**

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**Legal Member/Chair**

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**Date**