



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011  
Chamber Ref: FTS/HPC/PR /25/0017**

**Tribunal Members:**

**Robert MacDonald (Legal Member)**

**Decision**

**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 Applicant of the sum of TWO THOUSAND FIVE HUNDRED POUNDS (£2500) Sterling.**

1. The Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) on the 5<sup>th</sup> of January 2026 under rule 103 seeking an order for payment against the Respondent in terms of the Tenancy Deposit Schemes (Scotland) Regulations 2011.
2. The application was accepted by the Tribunal on the 13<sup>th</sup> of January 2026. A Case Management Discussion (“CMD”) was assigned to take place by teleconference on the 18<sup>th</sup> of June 2026.
3. The parties were both present at the CMD on the 18th June 2026.
4. At the CMD the Tribunal had before it documentation including
  - a) A copy of the Application;

- b) a copy of the private residential tenancy agreement between the parties.
  - c) Evidence from the approved tenancy deposit providers that the tenancy deposit had not been protected;
  - d) Copy Whatsapp messages between the parties.
5. The Tribunal established from the parties that certain facts were agreed, namely that a total of £1050 have been paid as a deposit; that the deposit had not been placed with an approved tenancy deposit provider at the commencement of the tenancy; that the tenancy started on the 31<sup>st</sup> of October 2020 and ended on the 31<sup>st</sup> of October 2025; and that the Applicant received this deposit back in full about 2 weeks prior to the CMD, and after intimation of these proceedings on the Respondent.
6. The Respondent advised the tribunal that he had rented this property to the Applicant by himself without using a letting agent. He accepted that the tenancy deposit had not been placed on with an approved deposit provider within 30 days of the commencement of the tenancy, which he said was as a result of an oversight on his part. He also accepted that there had been a significant delay in the tenancy deposit being returned to the applicant. He explained that at the end of the tenancy he had placed the matter in the hands of a letting agent who was going to manage the property going forward. He accepted that he'd received email from the Applicant asking about the deposit and Whatsapp messages. He apologised for the length of time it had taken to return the tenancy deposit to the applicant. His explanation was that he had assumed his letting agent was going to deal with matters at the conclusion of the tenancy but ultimately accepted that this was his responsibility.
7. The Applicant confirmed that as set out in his application he was asking the tribunal to make an order in terms of Regulation 10 of three times the tenancy deposit which amounted to £3150. He pointed to the fact that the tenancy deposit had been unprotected throughout the tenancy and that he had encountered significant difficulties in recovering the tenancy deposit at the conclusion of the tenancy. He referred to messages sent by him

to the Respondent which went unanswered, and to the fact that he had to raise separate proceedings before the Tribunal to recover the deposit. He accepted that the tenancy deposit had eventually been returned to him in full, but pointed out that this had only happened after service of the proceedings on the Respondent.

8. The Tribunal explained to the Respondent the extent of the Tribunal's powers under Regulation 10 and gave the Respondent the opportunity to make a submission to the Tribunal with any mitigating factors which he wanted the Tribunal to take into account.
9. The Respondent reiterated the fact that this had been an oversight on his part. He had eventually returned the tenancy deposit to the Applicant in full notwithstanding the fact that, by his account, there had been some cleaning required to be done to the property at the conclusion of the tenancy. He had now placed the rental of this property with an agent so that going forward the obligations imposed by the Regulations would be managed for him.
10. The Tribunal was satisfied that there was sufficient information before it to make a decision in this case at a CMD.
11. The 2011 Regulations were designed to provide protection to tenants against a landlord retaining control over the return of a deposit at the end of a tenancy. They provide a mechanism for resolving a dispute between landlord and tenant regarding return of the deposit.
12. It was a matter of agreement between the parties that the deposit had not been properly protected during the tenancy. The Tribunal required to make a decision about the level of award, which is fair, proportionate and just in all the circumstances taking into account both aggravating and mitigating circumstances, having regard to the purpose of the 2011 Regulations and the seriousness of the breach by the landlords. It should be noted that there is an absolute obligation on a landlord such as the Respondent to pay a tenancy deposit into an approved scheme. The Respondent was aware of his obligation in terms of the Regulations to place the deposit with an approved deposit

scheme provider. While ultimately there was no loss, he had allowed the Applicants' deposit to be unprotected and accordingly at risk for a period of more than 5 years, and there had been a significant delay in the deposit being returned to the Applicant.

13. In assessing the amount to be awarded Regulation 10 provides that an order can be made that the landlord pay the tenant an amount not exceeding three times the amount of the tenancy deposit. The Tribunal requires to exercise its discretion having regard to the circumstances surrounding the breach.
14. The Tribunal noted that the Respondent had admitted his failure to comply with the 2011 Regulations. The Tribunal accepted in this case that the Respondents failure to comply with his duties under regulation 3(1) of the 2011 Regulations had not resulted in the tenant sustaining a loss. Nevertheless, the tribunal was concerned that the deposit in this case had been unprotected for a period in excess of five years, which period covered the entire duration of the tenancy. It appeared to the Tribunal that this was serious breach of the 2011 Regulations by the Respondent.
15. The Tribunal decided that a fair, reasonable and proportionate sum that the Respondent should be ordered to pay to the Applicant would be £2500.

## **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.**

|

**Robert MacDonald**

**18 June 2026**

**Legal Member/Chair**

**Date**