



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

Chamber Ref: FTS/HPC/PR/26/0146

Re: Property at 71 Ivanhoe Drive, Glenrothes, Fife, KY6 2ND (“the Property”)

Parties:

Miss Gillian Sorbie, 31 Wyse Witches Way, Dunfermline, K12 0FH (“the Applicant”)

Mr Arran Williams, Mrs Kimberlee Williams, 1 Church Lane, Withern, Lincs, LN13 0NG; 1 Church Lane, Withern, Lincs, LN13 0NG (“the Respondents”)

Tribunal Members:

Fiona Stephen (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application ought to be dismissed.

Background

1. By application dated 13 January 2026 the Applicant seeks an award under Regulation 9 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the Regulations”) and Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”). The Applicant’s position was that the Respondents had failed to lodge her deposit timeously with one of the approved tenancy deposit schemes. In her application, the Applicant stated that she “wanted her arrears wiped” which included the deposit of £825.00. This is not a disposal that the Tribunal could make in an application under Rule 103.
2. The application was accepted by the Tribunal on 19 January 2026 and referred for determination by the Tribunal.

3. The Respondents were served with the papers in this case by Process Servers on 14 May 2026 conform to Execution of Service of the same date. The Respondents were therefore aware that a Case Management Discussion (“CMD”) was fixed for 16 June 2026 at 2pm by teleconference call and that any written representations ought to be lodged with the Tribunal by 1 June 2026. Written representations were lodged by the Respondents on 29 May 2026 and copied to the Applicant on 1 June 2026. It appears that the Applicant may not have received these representations due to a change in her email address of which the Tribunal was not aware.
4. The Tribunal had before it:
 - (i) The Application Form G;
 - (ii) The Tenancy Agreement between the Applicant and the Respondents;
 - (iii) Confirmation from the Scottish Landlord Register that the Respondents were registered landlords of the Property;
 - (iv) Proof of payment of the deposit by the Applicant;
 - (v) Confirmation from SafeDepositsScotland that the Applicant’s deposit was received by them on 20 September 2012; and
 - (vi) Case Papers.

Case Management Discussion (“CMD”)

5. A CMD took place on 16 June at 2pm by teleconference call. The Applicant and Respondents were in attendance. The Tribunal explained the purpose of the CMD and the powers of the Tribunal to determine matters. The Tribunal asked various questions of the parties with regard to the application.
6. The parties confirmed that the Applicant had been tenant of the Property under a Short Assured Tenancy for an initial Term of 21 October 2011 until 20 April 2012. The tenancy could be continued on a calendar month basis thereafter until terminated on 28 days’ notice. The tenancy did continue until October 2025. The Applicant’s position was that it terminated on 26 October 2025. The Respondents’ position was that the Property had been abandoned by the Applicant.
7. There was a dispute between the parties about the precise circumstances/sequence of events surrounding the ending of the tenancy but the Tribunal did not consider this relevant to the outcome of the application.
8. The Applicant’s position was that the Respondents failed to lodge her tenancy deposit of £825.00 timeously with SafeDepositsScotland i.e. within 30 working days of commencement of the tenancy. It was not lodged until 20 September 2012 which was 11 months after the start of the tenancy. The Applicant had been advised by SafeDepositsScotland to make an application to the Tribunal.

9. The Respondents lodged their written response with the Tribunal before 1 June 2026. Their position was that the Applicant's deposit had been lodged timeously. They set out that "The Tenancy Deposit Schemes (Scotland) Regulations 2011 state for tenancies commencing between 7 March 2011 and prior to 2 October 2012, the operational date, the tenancy deposit must be paid and the information provided to the tenant, by 13 November 2012. The Deposit was registered with Safe Deposit Scotland on the 20/09/2012, two months prior to the required statute deadline date of the 13 November 2012. The tenant's complaint is that the deposit was not protected within the 30-day period required by law. However, ... the deposit was fully protected and the Regulation 42 notice was provided to the tenant, within the legal timeframe."
10. When the Applicant was asked to comment on the Respondents' position, she advised that she had not seen their written response. The Tribunal checked the papers and told the Applicant that the written representations had been sent to her on 1 June 2026. She said that the Tribunal must have sent them to her old email address. It was not clear to the Tribunal that the Applicant had advised the Tribunal's administration of any change to her email address. The Tribunal took a note of her new email address.
11. The Tribunal explained to the Applicant that the outcome of this application was dependent on when the Deposit Regulations came into force so far as her tenancy deposit was concerned. The deposit fell to be dealt with under the transitional provisions of the Deposit Regulations. That meant the time limit for lodging the deposit was different to the usual 30 working days regulation (under Regulation 3). The Tribunal read out Regulation 48 of the Deposit Regulations. The Tribunal appreciated that the Applicant did not have this in front of her. The Tribunal explained that as the deposit had been paid by the Applicant to the Respondents after the day on which the Deposit Regulations had come into force (i.e. 7 March 2011) and before the first day on which an approved deposit scheme became operational (i.e. 2 July 2012) then they had until 13 November 2012 to lodge the deposit. That was the date within 30 working days of the date which falls 3 months after the first day on which the deposit scheme becomes operational which was 2 October 2012. The deposit had been paid on 20 September 2012. This date was agreed by the Applicant.
12. The Tribunal stated to the parties that it was prepared to make a decision on the application today given the succinct legal issue involved. Both parties were asked if they had any comments. The Applicant stated that this was fine by her as she had only been following the advice given to her by SafeDepositsScotland. The Respondents confirmed they had nothing further to add. The Tribunal noted that the deposit had been repaid in full to the Respondents after the end of the tenancy by SafeDepositsScotland.
13. The Tribunal told the parties that on the basis of the agreed facts between the parties and the legal issue applicable, the Tribunal would refuse the application and would issue a decision as soon as possible.

Findings in Fact

14. The parties entered into a Short Assured Tenancy in respect of the Property with an initial term from 21 October 2011 until 20 April 2012 following which the lease continued from calendar month to calendar month until brought to an end by either party serving written notice on the other on a period of not less than 28 days.
15. The tenancy was ended by the Applicant on 26 October 2025.
16. The Respondents considered the tenancy had been abandoned by the Applicant.
17. The monthly rent payable in the tenancy was £550.00.
18. A security deposit of £825.00 was paid by the Applicant in terms of the tenancy (Clause 1.10).
19. The security deposit of £825.00 was lodged with SafeDepositsScotland by the Respondents on 20 September 2012.
20. SafeDepositsScotland is one of the approved deposit schemes whose operational date was 2 July 2012.
21. Information required in terms of Regulation 42 of the Deposit Regulations was provided to the Applicant by SafeDepositsScotland on 20 September 2012.
22. Following the end of the tenancy, the security deposit of £825.00 was repaid in full by SafeDepositsScotland to the Respondents.

Reasons for Decision

23. The Tribunal was satisfied that it was able to make a determination and that it was not contrary to parties' interest to do so at the CMD without the need for a hearing all in terms of Rules 17 and 18 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the procedure rules").
24. The application was lodged no later than 3 months after the tenancy ended as required by Rule 9 (2) of the Deposit Regulations.
25. The application relates to the purported failure of the Respondents to place a tenancy deposit within an approved tenancy deposit scheme timeously. Landlords have been required since the introduction of the Deposit Regulations to pay tenancy deposits into an approved scheme.
26. The Deposit Regulations came into force on 3 March 2011. The Deposit Regulations contain transitional provisions. The transitional provisions apply to the parties' tenancy.

27. Regulation 48 of the Deposit Regulations provides:

“48.

Where the tenancy deposit was paid to the landlord on or after the day on which these Regulations come into force and before the first day on which an approved scheme becomes operational, regulation 3 applies with the modification that the tenancy deposit must be paid and the information provided within 30 working days of the date which falls three months after the first day on which such a scheme becomes operational.”

28. Regulation 3 of the 2011 Regulations provides inter alia:

“(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.”

29. For tenancies where a deposit was paid after commencement of the Deposit Regulations on 7 March 2011 and before the first date when an approved scheme became operational i.e. 2 July 2012 then regulation 3 of the Deposit Regulations applies but is modified so that the tenancy deposit and the information required is provided within 30 working days of the date which falls three months after the first day on which such scheme becomes operational. SafeDepositsScotland became operational on 2 July 2012. Three months after this date is 2 October 2012. 30 working days after 2 October 2012 is 13 November 2012. The tenancy deposit and required information was lodged and provided on 20 September 2012 well before the deadline of 13 November 2012. It follows that the Respondents did not fail to comply with their obligations under the Deposit Regulations and as a result, the Applicant’s application must be dismissed.

Decision

Having regard to all the facts and circumstances, the Tribunal determined that the Respondents had complied with their obligations under the Deposit Regulations, and, in particular, Regulation 48 and, that, as a result, the application must be dismissed.

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.

**Fiona Stephen
Legal Member/Chair**

**16 June 2026
Date**