



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) act 2014 in an application made under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/25/5416

Re: Property at 25/33 Brunswick Road, Edinburgh, EH7 5GY (“the Property”)

Parties:

Miss Cara Florence, 28 Green Street, Forfar, DD8 3AR and Miss Julie Roeder, 55 Downs Hill, Beckenham, BR3 5ET (“the Applicants”)

McMinn and Daughters Limited, Vale Cottage, 52 Forth Street, North Berwick, East Lothian, EH39 4JJ (“the Respondents”)

**Tribunal Member:
George Clark (Legal Member)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondents to the Applicants of the sum of £.

Background

1. By application, dated 16 December 2025, the Applicants sought an Order for Payment in respect of the failure of the Respondents to comply with Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”). The Applicants’ complaint was that the Respondents had failed to lodge a deposit of £1,150 in an approved tenancy deposit scheme within 30 working days of the beginning of a tenancy. The Applicants were seeking compensation of up to three times the amount of the deposit.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 3 October 2022 at a rent of £1,150 per month with a deposit of £1,150, and a Safe

Deposit Protection Certificate from Safe Deposits Scotland confirming that the tenancy deposit was protected with them from 18 March 2024.

3. On 1 June 2026, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 22 June 2026.
4. On 16 June 2026, the Respondents' letting agents Cox & Co (Scotland) Limited, Edinburgh provided written submissions on behalf of the Respondents. They stated that following a review of the matter it appeared that a clerical error had occurred at the time, involving a member of staff who was no longer employed by the letting agents. Once the issue was identified, the deposit was promptly registered with Safe Deposits Scotland. The Tenants had not been adversely affected by the letting agents' error. The deposit was returned to them as soon as possible upon vacating the Property, with only the appropriate deductions applied where necessary. This had been an isolated and genuine mistake and has never happened again, and the agents extended their sincere apologies to the Tenants.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 8 July 2026. The Applicants were present. The Respondents were represented By of Cox & Co (Scotland) Limited.
6. The Respondents' representative stressed, as they had in their written representations, that

Reasons for Decision

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to enable it to determine the application without a Hearing.
8. Under Regulation 3(1) of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("The 2011 Regulations"), a landlord must, within 30 working days of the beginning of the tenancy, pay the deposit to the scheme administrator of an approved scheme. Under Regulation 10, if satisfied that the landlord did not comply with any duty in Regulation 3, the Tribunal **must** order the landlord to pay to the tenant an amount not exceeding three times the amount of the tenancy deposit. Regulation 42 of the 2011 Regulations requires a landlord to provide certain information to tenants, including the name and contact details of the scheme administrator of the tenancy deposit scheme to which the deposit has been paid.

9. The Tribunal noted that it was the Respondents' agents who had failed to lodge the deposit. The legislation is, however, quite clear. It is the responsibility of landlords to ensure deposits are lodged timeously in an approved scheme. They may have a right of relief against agents who act on their behalf, but they remain liable for the failure, as in this case, to comply with the 2011 Regulations.
10. The Tribunal also noted that the tenancy began on 3 October 2022, but the deposit was not protected until 18 March 2024, some 16 months after the expiry of the 30-working-day period. Accordingly, although the Tribunal accepted that it appeared to have been an isolated and genuine mistake on the part of the letting agents, it was a serious failure to comply and could have had significant repercussions for the Applicants had the letting agents run into financial difficulties or had the tenancy ended before the deposit was lodged, with the Applicants being denied the protection of an independent adjudication on any sums the Landlords might have sought to withhold from the deposit.
11. Having considered all the evidence before it, the Tribunal decided that it would order the Respondents to pay the sum of £. The Tribunal regarded this as fair, reasonable and proportionate, taking into account the length of time the Applicants' deposit had been at risk, even though they had not suffered actual financial loss as a result, and the stress and inconvenience of having had to make an application to the Tribunal.

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.

George Clark

Legal Member/Chair

8 July 2026
Date