Housing and Property Chamber
First-tier Tribunal for Scotland

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulations 9 and 10 Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the Regulations")

Chamber Ref: FTS/HPC/PR/26/0046

Property at 3/1 20 CASTLE STREET, PAISLEY, PA1 2JP ("the Property")

Parties:

Mr YASIR SARFRAZ, 3/1 20 CASTLE STREET, PAISLEY, PA1 2JP ("the Applicant")

GLOBE HOUSING SCOTLAND LTD, UNIT 3, IMPERIAL PARK, WEST AVENUE, LINWOOD, PA1 2FB ("the Respondent")

Tribunal Members:

Josephine Bonnar (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment of the sum of £1700 should be granted in favour of the Applicant.

Background

1. The Applicant seeks a payment order in relation to a failure by the Respondent to comply with the Regulations. Various documents including a tenancy agreement were lodged with the application.

2. A copy of the application was served on the Respondent, and both parties were notified that a case management discussion ("CMD") would take place on 18 June 2026 at 10am by telephone conference call. Prior to the CMD, the Respondent lodged written submissions. These stated that the Respondent accepted that the deposit had not been lodged in an approved scheme. It had not been deliberate and the whole deposit was held. They added that the Applicant had not suffered a financial loss, the tenancy was ongoing and they were willing to rectify their omission.

3. The CMD took place on 18 June 2026 at 10am. The Applicant participated. The Respondent was represented by Mr Reilly, one of their directors. A related application under Chamber Reference CV/25/5261 was also discussed.

Summary of discussion at CMD

4. The Legal Member also noted that the following facts are not disputed: -

(a) The tenancy started on 24 June 2023 and is continuing.

(b) A deposit of £750 was paid by the Applicant to the Respondent at the start of the tenancy.

(c) The deposit has not been lodged in an approved scheme.

5. The Legal Member asked Mr Reilly what he had meant when he stated that the failure to lodge the deposit had not been deliberate and whether he had now rectified the omission. He responded by stating that the failure to lodge the deposit had been an oversight and that it is still held in a bank account. He has not arranged to lodge it in a scheme since the application was served on him as he was concerned about how this would look at this stage.

6. Mr Sarfraz told the Legal Member that he had sent Mr Reilly a message about a month after he moved in to ask where the deposit had been lodged. He later sent a further message as he had not received a response. He pointed out that the deposit has not been secured in a scheme for three years. Mr Reilly said that he receives many messages and that he does not recall receiving the initial request, which is why there was no response. He accepted that he had received the later message in January 2026, and he responded at that time. He did not lodge the deposit at that time because of the impression that would present. He said that the Respondent is a large company. New build developments is the main part of the business but they also have 9 residential rental properties. They have a lot of employees. There is no one person designated to deal with tenancy deposits – whoever is free and has the time will do that. He said that there have been no previous breaches of the Regulations. It happened on this occasion because they were busy and they are happy to lodge the deposit now or repay it to the Applicant if he decides to terminate the tenancy. The funds have always been available. Mr Reilly concluded by saying that he has never had any issues with tenants and they always work with tenants to resolve issues.

7. The Legal Member noted that the Respondent could choose to lodge the deposit in an approved scheme after the CMD. Mr Reilly said that he would do so.

Further procedure

8. On 10 June 2026, the Respondent sent an email to the Tribunal with a DAN number in relation to the deposit. On 19 June 2026, the Applicant notified the

Tribunal that the deposit had been lodged with SDS although the specified start date of the tenancy was not correct.

Findings in Fact

9. The Applicant is the tenant of the property.

10. The Respondent is the owner and landlord of the property.

11. The tenancy started on 24 June 2023 and is ongoing.

12. At the start of the tenancy the Applicant paid a deposit of £750.

13. The deposit was not lodged in an approved scheme until after the CMD, between 10 and 19 June 2026.

14. On 23 August 2023, the Applicant sent a message to the Respondent to ask where the deposit had been lodged. He did not receive a reply.

15. On 6 January 2026, the Applicant sent a further message to the Respondent to enquire about the deposit. He reminded the Respondent that it was a legal requirement that the deposit be lodged in an approved scheme.

16. The Respondent replied to the Applicant's messages dated 6 January 2026. They said that the deposit was "held" and would be dealt with in accordance with the tenancy agreement at the end of the tenancy.

Reasons for Decision

17. Regulation 3 of the 2011 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; and
(b) Provide the tenant with the information required under regulation 42.

(1A) Paragraph (1) does not apply –

(a) Where the tenancy comes to an end by virtue of section 48 or 50 of the Private Housing (Tenancies) (Scotland) Act 2016, and
(b) The full amount of the tenancy deposit received by the landlord is returned to the tenant by the landlord,
Within 30 working days of the beginning of the tenancy.

18. Regulation 9 of the 2011 Regulations states that (i) a tenant who has paid a tenancy deposit may apply to the First-tier Tribunal for an order under Regulation 10 where the landlord did not comply with any duty in regulation 3 in respect of that tenancy deposit. (2) An application under paragraph (1) must be made no later than 3 months after the tenancy has ended

19. Regulation 10 of the 2011 Regulations stipulates that if the Tribunal is satisfied that the landlord did not comply with a duty in terms of regulation 3, it "(**a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit**.

20. The Legal Member notes that the essential facts are not in dispute and is satisfied that a decision can be made on the application without further procedure or a hearing.

21. From the documents lodged with the application, the parties' written submissions, and the information provided by both parties at the CMD, the Legal Member is satisfied that the Applicant paid a deposit of £750 at the start of the tenancy. The tenancy started on 24 June 2023. The Respondent did not lodge the deposit in an approved scheme until after the CMD, sometime between 10 and 19 June 2026. The Applicant has therefore established that the Respondent failed to comply with Regulation 3(1)(a) of the 2011 Regulations.

22. In terms of Regulation 10, an award **must** be made where there has been a failure by a landlord to comply with the Regulations. In assessing the award, the Legal Member had regard to the following factors: -

(a) The Respondent is a commercial landlord with considerable experience. They ought to have procedures in place to ensure that legal obligations are met. The information provided by Mr Reilly suggests a somewhat casual attitude towards their landlord obligations. Although they have a large staff, no one is directly responsible for processing tenancy deposits. Instead, they are processed by whoever has the time to do so. This is highly unsatisfactory and is bound to lead to oversight and error.

(b) The Legal Member is also not persuaded by the claim that there was no deliberate breach. Oversight and human error might account for the failure to lodge the deposit at the start of the tenancy. It is also possible that Mr Reilly did not read the message from the Applicant in August 2023. However, there is no doubt that he has been fully aware of the "oversight" since January 2026. The Applicant not only enquired but reminded the Respondent of their legal obligations. It is evident from the reply that Mr Reilly chose (at that point in time) to hold onto the deposit when he could have rectified the failure. His reference to the tenancy agreement is nonsensical – it stipulated that the deposit would be lodged with SDS.

(c) It is not a tenant's responsibility to chase a landlord for the scheme details or remind a landlord of their obligations. However, the Applicant in this case did so and cannot be faulted in the actions he has taken.

(d) The Legal Member accepts that the Applicant has not sustained any financial loss. The tenancy is ongoing and the deposit is now lodged. This will allow the Applicant to access the scheme adjudication process at the end of the tenancy.

23. In the case of Rollett v Mackie (2019 UT 45), the Upper Tribunal refused the appeal by the Applicant who argued that the maximum penalty ought to have been imposed. Sheriff Ross commented that the "level of penalty requires to reflect the level of culpability" and that "the finding that the breach was not intentional…tends to lessen culpability" (13). He goes on to say, "Cases at the most serious end of the scale might involve repeated breaches against a number of tenants, fraudulent intention, deliberate or reckless failure to observe responsibilities, denial of fault, very high financial sums involved, actual losses caused to the tenant."

24. In the present case, the only one of the aggravating factors listed by Sheriff Ross which applies is "deliberate or reckless failure to observe responsibilities". Since January 2026, the breach has been intentional. A high penalty is therefore warranted, particularly as the Respondent is an experienced landlord. The Legal Member is therefore satisfied that an award at the higher end of the scale is appropriate. Had the deposit still been in the Respondent's possession and at risk, the Legal Member would have awarded at least £2100. As the deposit is now secured, a reduction is appropriate. The Tribunal awards £1700.

Decision

25. The Tribunal determines that an order for payment of the sum of £1700 should be made in favour of the Applicant.

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.

Josephine Bonnar, Legal Member **28 June 2026**