



**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**

Chamber Ref: FTS/HPC/CV/24/1750

Re: Property at 40 Maxwell Street, Girvan, KA26 9EJ (“the Property”)

Parties:

Ms Cheryl Cooper, 4 Cuddieston, Girvan, KA26 0EN (“the Applicant”)

Mr Alan Harkness, 17 Vicarton Street, Girvan, KA26 9HF (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be made.

Background

1. The background to the case is given in the various Case Management Discussion Notes. In summary, the Applicant seeks repayment of the deposit that she paid to the Respondent, in the amount of £400.
2. The Applicant raised a separate action against the Respondent under the Tenancy Deposit Schemes (Scotland) Regulations 2011. The case reference was FTS/HPC/PR/24/1748. The Tribunal decided in favour of the Applicant and made an order for payment against the Respondent in the amount of £900.

Hearing

3. The case called for a Hearing on 23rd July 2026. It was conjoined with application CV/25/0985, which was an application by the Respondent against the Applicant for payment in relation to damage he alleged she had caused to the property.

4. The Applicant appeared and was represented by Mr Anderson of Ayr Housing Aid Centre. The Respondent did not appear, but was represented by his friend, Mrs Edens.
5. The Tribunal confirmed that no evidence was required in relation to this case. It was already admitted in case FTS/HPC/PR/24/1748 that the Applicant had paid the Respondent £400 by way of a deposit and that the Respondent has not returned that money.
6. Mr Anderson moved that interest be awarded on the sum at the rate of 5% per annum, which he said was just above the bank base interest rate. He said that it was fair to award interest given how long the deposit had been held by the Respondent.
7. Mrs Edens was opposed to interest being awarded. She said that it was not the fault of either party that the case had taken so long to reach a conclusion.

Findings in Fact

- a. The parties entered in to an assured tenancy agreement in relation to the property;
- b. The tenancy commenced on 23rd June 2017;
- c. The Applicant paid the Respondent £400 by way of a deposit;
- d. The Respondent did not lodge the deposit in an approved scheme in terms of the Tenancy Deposit Schemes (Scotland) Regulations 2011;
- e. The tenancy came to an end on 15th March 2024;
- f. The Respondent has not returned the deposit to the Applicant.

Reasons for Decision

8. The Respondent has retained the Applicant's deposit when he had no right to do so. The deposit should have been placed in an approved scheme. At the end of the tenancy, regardless of whether the Respondent was claiming that damage had been done, he had no right to retain the sum when he had not followed the correct procedure for deposit.
9. In relation to the question of interest, the Tribunal could see both sides of the argument. It is not the fault of either side that the resolution of the Tribunal application has taken so long. The Tribunal is of the view that it would not be equitable to make an award of interest in the circumstances.

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.

Alison Kelly

Legal Member/Chair

23 July 2026

Date