



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 Regulations”)

Chamber Ref: FTS/HPC/PR/26/0070

Re: Property at 88 Fancy Farm Road, Greenock, PA16 7NE (“the Property”)

Parties:

Miss Alison Williamson, 0/2 21 Brisbane Street, Greenock, PA16 8LL (“the Applicant”)

HCE Properties, 201 Auchmead Road, Greenock, PA16 0LN (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member)

Decision (in the absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £900.

Background

1. This is a Rule 103 application. The Applicant is seeking payment in respect of the Respondent’s failure to lodge the tenancy deposit of £450 in an approved tenancy deposit scheme. The Applicant lodged a copy of a private residential tenancy agreement between the parties which commenced on 9th October 2021 with a monthly rent of £450, and evidence from the three approved tenancy deposit schemes to show the deposit had not been lodged.
2. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 7th May 2026.
3. A Case Management Discussion set down for 8th June 2026 had to be postponed due to technical issues.
4. Notification of a further Case Management Discussion was made upon parties by letter dated 11th June 2026.

Case Management Discussion

5. A Case Management Discussion (“CMD”) took place by telephone conference on 29th June 2026. The Applicant was in attendance. The Respondent was not in attendance. The start of the CMD was delayed to allow the Respondent to attend. The Respondent did not join the call.
6. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
7. The Applicant confirmed the background to the application. As set out in the tenancy agreement, a deposit of £450 was required. The Applicant said the deposit was paid by her parents to the Respondent in cash, as her parents had previously lived in the Property and knew the Respondent. The Applicant was unaware that the deposit was unprotected throughout the tenancy and for a period of over four years. It was only at the end of the tenancy that she discovered the failure to lodge the deposit. The tenancy ended on 26th December 2025. Requests made to the Respondent for repayment of the deposit were not answered.
8. Responding to questions from the Tribunal, the Applicant said she understands the Respondent has a portfolio of properties and has been engaged in letting for some time. The Applicant said she was served with a Rent Relief Order in 2024. As she understood it, the local authority had discovered that the Respondent had not carried out the required safety checks and may not have been registered as a landlord. The order stayed in place for a couple of months. The Applicant said no inspections were carried out during the tenancy.
9. The Applicant did not wish to put forward any representations on the amount of any award.

Findings in Fact and Law

10.
 - (i) The parties entered into a private residential tenancy agreement in respect of the Property that commenced on 9th October 2021 with a monthly rent of £450.
 - (ii) A tenancy deposit of £450 was paid to the Respondent on behalf of the Applicant at the commencement of the tenancy.
 - (iii) The deposit was not lodged with an approved tenancy deposit scheme throughout the duration of the tenancy, which ended on 26th December 2025.
 - (iv) The Respondent has breached Regulation 3 by failing to pay the deposit into an approved tenancy deposit scheme.

Reasons for Decision

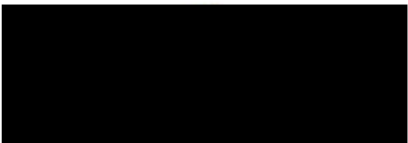
11. The Regulations were put in place to ensure compliance with the tenancy deposit scheme, and to provide the benefit of dispute resolution for parties. The Tribunal considers that its discretion in making an award requires to be exercised in the manner set out in the case *Jenson v Fappiano (Sheriff Court (Lothian and Borders) (Edinburgh) 28 January 2015)* by ensuring that it is fair and just, proportionate and informed by taking into account the particular circumstances of the case. The Tribunal must consider the facts of each case appropriately.
12. The Tribunal took guidance from the decision of the Upper Tribunal UTS/AP/19/0020 which states: '*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, or other hypotheticals.*'
13. The Tribunal considered this to be a serious matter. The Applicant's deposit was not lodged for the duration of the tenancy, a period of over four years. The deposit was not returned at the end of the tenancy, and the Applicant was deprived of the possibility of adjudication by an approved tenancy deposit scheme at the end of the tenancy.
14. The Respondent did not see fit to attend the CMD or make representations. No mitigating circumstances were put forward by the Respondent regarding the failure to lodge the tenancy deposit timeously. It was apparent to the Tribunal that the Respondent is a property-related company and an experienced landlord of multiple properties. The Tribunal considered that the Respondent ought to have had proper procedures in place to ensure compliance with the obligation to lodge the tenancy deposit timeously. The Respondent also failed to comply with their duties in terms of safety checks on the Property. The Applicant was entitled to have confidence that the Respondent would comply with their duties as a landlord.
15. Taking all the circumstances into account, the Tribunal decided it would be fair and just to award a sum of £900 to the Applicant, which is two times the tenancy deposit.

Decision

16. The Tribunal grants an order against the Respondent for payment to the Applicant of the sum of £900 in terms of Regulation 10(a) of The Tenancy Deposit Schemes (Scotland) Regulations 2011.

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.


Legal Member/Chair

29th June 2026
Date