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 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/25/5515

Re: Property at 50 Springhill Avenue, Crosshouse, Kilmarnock, East Ayrshire, KA2 0JP ("the Property")

Parties:

Mr Angus Wilson and Mrs Susan Wilson, both 21 Victoria Crescent, Irvine, North Ayrshire, KA12 8DY ("the Applicants")

Dr Debarati Dutta and Dr Rana Santra, both 17 Hawthorne Avenue, Hucknall, Nottingham, NG15 6LN ("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 £1,000.

Background

1. By application, dated 23 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 £525 in an approved tenancy deposit scheme within 30 working days of the beginning of a tenancy. The Applicants were seeking compensation of £1,050, being two times the amount of the deposit.

2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 22 October 2022 at a rent of £525 per month with a deposit of £525, which, according to the tenancy agreement, was to be lodged with MyDeposits

Scotland, and copies of correspondence from Letting Protection Scotland, Safe Deposits Scotland and MyDeposits Scotland, all confirming that the tenancy deposit was not protected with them. The email from MyDeposits Scotland was dated 5 January 2026.

3. On 22 May 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 12 June 2026.

4. On 8 June 2026, the Respondents provided written representations. They stated that all tenancy and deposit matters were dealt with by their letting agents, Countrywide. At one point, money was transferred to them, but they had thought it was a refund or adjustment relating to the previous tenancy which had not yet ended at the time the money was sent. Following discussion with Countrywide it became apparent that it related to the Applicants' tenancy deposit and the Respondents promptly refunded the full amount to Countrywide. The Respondents did not intentionally retain, withhold or misuse the tenancy deposit and they acted in good faith throughout. They referred to the checkout inspection as a result of which they had sought £170 as the replacement cost of a missing fridge-freezer. In further representations on 17 June 2026, the Respondents provided a copy of an email from Countrywide saying that the deposit had been previously claimed in error and the Applicants would have received an email confirming the claim. Countrywide accepted the deposit had previously been claimed in error. They had been waiting for funds being returned by the Respondents so that they could "re-lodge" the deposit. This had since been actioned and a claim for £170 submitted against the deposit. The Respondents now needed to accept the deduction or raise a dispute. If they did the latter, the tenancy deposit scheme would make the final decision.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 24 June 2026. The Applicant, Mrs Wilson, was present and was represented by Mr Alister Meek of CHAP, Ardrossan. The Respondents were both present.

6. The Respondents stressed, as they had in their written representations, that everything related to the present and previous lettings was dealt with by Countrywide. They took the deposits and dealt with check out reports and any claims against tenancy deposits. Whenever Countrywide made them aware of the fact that an earlier sum sent to them in 2022 was in fact the Applicants' deposit, they remitted it back to Countrywide, who had admitted in their email of 8 June 2026 that it was their fault. It was an error and there was no malice or malevolent intention.

7. Mr Meek told the Tribunal that the deposit had been lodged with MyDeposits Scotland on 27 January 2026 and that final adjudication on

the deposit was still to be made, as the Applicants were disputing the claim for £170. They had tried for two months after the tenancy ended to recover the deposit but neither the Respondents nor Countrywide had taken any action, each blaming the other.

Reasons for Decision

8. 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.

9. 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.

10. The Tribunal noted that the Respondents left all the arrangements for the letting with their agents, Countrywide, who appeared to have sent the deposit in error to the Respondents in 2022. The Tribunal was satisfied that the Respondents had not deliberately then held on to the deposit and that they had mistakenly thought it referred to the previous tenancy. The Tribunal could not understand why Countrywide had lodged the deposit fully three months after the tenancy ended, nor why they had used the word "re-lodge" in their email of 8 June 2026, when they had never lodged the deposit in the first place. It appeared to the Tribunal that they were entrusted by the Applicants to deal with all matters relating to the tenancy, that they received the deposit but sent it on to the Respondents in error and that they failed to notice the error when they should have been dealing with the requirement to lodge the deposit when the tenancy began. 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.

11. Having determined that the Respondents had failed to comply with the 2011 Regulations, the Tribunal then considered the level of payment they should be ordered to make to the Applicants. The Tribunal recognised that the Respondents were not aware of the failure until the

tenancy ended and that they then put their letting agents in funds to deal with the deposit, but the fact remained that the deposit had been at risk for the entire duration of the tenancy and, instead of accepting the original mistake and trying to resolve the matter amicably, the agents still sought to make a claim against the deposit and the matter remains unresolved 8 months after the tenancy ended. They may care to reflect on whether it might have been prudent to refund the deposit in full to the Applicants whenever their mistakes came to light and make good to the Respondents in relation to the fridge-freezer.

12. Having considered all the evidence before it, the Tribunal decided that it would order the Respondents to pay the sum of £1,000. The Tribunal regarded this as fair, reasonable and proportionate, taking into account the length of time the Applicants' deposit had been at risk, the difficulties they had encountered in recovering their money in the 8 months since the tenancy ended 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 **Date: 24 June 2026**