



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section Housing (Scotland) Act 2006 section 121 and Regulation 9 the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/26/1175

Re: Property at 86 Dryburn Avenue, Hillington, Glasgow, G52 2AN (“the Property”)

Parties:

Ms Ellen Clark, 86 Dryburn Avenue, Hillington, Glasgow, G52 2AN (“the Applicant”)

H&V Properties Glasgow Limited, Ground Floor (Part), Unit 8000, Academy Business Park, 51 Gower Street, Glasgow, G51 1PR (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Landlord is in breach of their obligations in terms of Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“Regulation 3”). The Respondent shall make payment to the Applicant in the sum of £1 (ONE POUND).

Background

1. An application was received by the Housing and Property Chamber dated 10th March 2026. The application was submitted under Rule 103 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not lodged the tenancy deposit within an approved scheme within 30 working days from the start of the tenancy.
2. On 28th July 2026 all parties were written to with the date for the Case Management Discussion (“CMD”) of 26th August 2026 at 10am by teleconferencing. The letter also requested all written representations be submitted by 13th August 2026.

3. On 7th August 2026, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letter box service. This was evidenced by Certificate of Intimation dated 24th December 2019.
4. This case was conjoined with FTS/HPC/CV/25/1175.

The Case Management Discussion

5. A CMD was held 26th August 2026 at 10am by teleconferencing. The Applicant was present and was represented Mr Philip Buchanan who is also the Applicant's son. The Respondent was not present but represented by Ms Dawn McDermott, Property Manager, Direct Lettings Scotland.
6. The Applicant had submitted that there had been a tenancy starting in 2010. A deposit was given in cash for £500 along with £500 for the first month's rent payment.
7. Ms McDermott said that it was not disputed that there was a tenancy between parties though the lease cannot be found. She said that she was authorised by the Respondent to pay over £500 in lieu of the deposit. The Respondent does not remember the situation and has no record of receiving a deposit. The Tribunal suggested that parties adjourn briefly to discuss matters. The Tribunal left the CMD to allow parties to have this discussion.
8. After the adjournment, parties agreed that the deposit will be paid over to the Applicant's new letting agent for the conjoined application. Parties were very amicable in reaching the decision.
9. Ms McDermott said that the Respondent has around 50 or more properties. Her firm has been effectively backward administrating on all of his properties to ensure that all his legal requirements a landlord have been met. This includes ensuring that Mr Buchanan said that the Applicant was not seeking a huge monetary penalty. He said that she wanted it noted that the Respondent had failed his duties. The Tribunal said that in the circumstances before it a £1 penalty was the correct level to grant.

Information for parties

10. This application relates to the failure of the Respondent to place a tenancy deposit within an approved tenancy deposit scheme. Landlords have been required since the introduction of the 2011 Regulations to pay tenancy deposits into an approved scheme within 30 working days of the commencement of the tenancy.
11. Regulation 9 of the 2011 Regulations indicates that if a landlord does not comply with any duty in regulation 3 then the Tribunal must order that a landlord makes payment to the Tenant of an amount "not exceeding three times the

amount of the tenancy deposit”. Those duties are twofold. There is a requirement to pay the deposit to a scheme administrator and the requirement to provide a Tenant with specified information regarding the tenancy deposit.

12. It seems to be conceded by the Respondent that the deposit had not been paid into an approved tenancy deposit scheme in accordance with the 2011 Regulations with a period of 30 working days from the commencement of the tenancy and that in this case the Respondent is in breach of the 2011 Regulations.
13. If that is the case, then the Tribunal is required to make an order for payment. The only matter to be determined by the Tribunal is the amount of the payment.
14. Parties should be aware that there are numerous decisions available on the Tribunal website setting out how the Tribunal has determined these applications.
15. Prior to the jurisdiction to determine these applications becoming part of the jurisdiction of the First-tier Tribunal, the applications were determined in the Sheriff Court. There were numerous Sheriff Court decisions which have been reported. In many of these cases, the Sheriff Courts have indicated that the Regulations were introduced to address what was a perceived mischief and that they will be meaningless if not enforced.
16. One such reported case is ***Phoebe Russell-Smith, Stephanie Dion-Jones and Alexis Herskowitz v. Ijeoma Uchegbu*** ([2016] SC EDIN 64) a decision by Sheriff Welsh. In that case the sheriff calculated the award to be made by considering two broad aspects to the sanction, firstly an element to mark the sustained period of time which subjected the tenants and the deposit to a risk the regulations were designed to avoid and secondly, a weighting (or financial penalty) to reflect the fact that the landlord was aware of their obligations and still failed to comply. It should be noted that this is not the only method which a tribunal can use to determine the amount to be awarded.
17. In a decision by Sheriff Principal Stephen at Edinburgh Sheriff Court in December 2013, the Sheriff Principal indicated that the court was “entitled to impose any penalty including the maximum to promote compliance with Regulations”. (***Stuart Russell and Laura Clark v. Samdup Tenzin*** 2014 Hous.L.R. 17).
18. The Tribunal notes that in an Upper Tribunal decision, (***Ahmed v Russel*** UTS/AP/22/0021 2023UT07) Sheriff Cruickshank indicates (at Para 38) that “***previous cases have referenced various mitigating or aggravating factors which may be considered relevant. It would be impossible to ascribe an exhaustive list. Cases are fact specific and must be determined on such relevant factors as may be present***”. The amount awarded should represent “***a fair and proportionate sanction when all relevant factors have been appropriately balanced***”.

Findings and reason for decision

19. A tenancy was entered into on or around May 2010. Neither party have a copy of this.
20. A deposit of £500 was paid on or around May 2010 in cash along with the first rent payment. Neither party kept records of this.
21. The deposit was not lodged within an approved deposit scheme within 30 days from the start of the tenancy.
22. The Respondent has failed to comply with the regulations to ensure that the deposit was lodged in an appropriate scheme within 30 days from the start of the tenancy. The Respondent has engaged with the Tribunal process to advise why this has happened and what steps have been taken to ensure that it will not happen again. All of the Respondent's 50 or more properties have been backward administrated to ensure that all legal requirements have been met including the lodging of the deposits in an approved scheme.

Decision

23. The Respondent has a duty under Regulation 3 to place the deposit in an approved scheme within the specified time but failed to do so. The Respondent did engage with the Tribunal process to explain why the deposit was late and what steps had been taken to prevent such a situation happening again. The Tribunal decided that a fair, just and proportionate sanction would be to order the Respondent to pay the Applicant £1 (ONE POUND).

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.

G. Miller

26th August 2026

Legal Member/Chair

Date