



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 9 of The Tenancy Deposit Scheme (Scotland) Regulations 2011 (“the 2011 Regulations”)

Chamber Ref: FTS/HPC/PR/26/1854

Re: Property at 23 Liberty Road, Bellshill, ML4 2EY (“the Property”)

Parties:

Mr Kevin Faith, 23 Hunters Crescent, East Kilbride, G74 3HY (“the Applicant”)

WEST VIEW PARK HOMES LTD, POBOX 15712, West Loathian, Bathgate, EH48 9DP (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £100.00 be made in favour of the Applicant.

1. Background

- 1.1 This is an application under rule 103 of the Chamber rules whereby the Applicant sought an order for payment in respect of an alleged failure by the Respondent to comply with their obligations under the 2011 Regulations. The application was accompanied by copies of the tenancy agreement between the parties, confirmation of the lodging of the deposit and the date upon which the tenancy ended.
- 1.2 The Respondent lodged written representations together with supporting documents in advance of the Case Management Discussion. The Applicant lodged a further written submissions in response to that lodged by the Respondent.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 16 September 2026 by teleconference. The Applicant attended personally. The Respondent was neither present nor represented. The Tribunal attempted to contact the Respondent by telephone but was unable to reach them.
- 2.2 The Tribunal noted that intimation of the Case Management Discussion and application had been made to the Respondent and representations had been received. The Tribunal considered it appropriate to proceed in the Respondent's absence as permitted by rule 29 of the Chamber rules.
- 2.3 The Tribunal made the Applicant aware of the scope of the application. Much of the written representations lodged dealt with the issue of the condition of the Property at the end of the tenancy agreement. The Tribunal did not consider that to be relevant to the present application and did not propose to hear from the Applicant further regarding this. The Applicant was in agreement with this.
- 2.4 The Tribunal heard from the Applicant. The tenancy began on 18 December 2024. A deposit of £1000.00 was paid on 12 December 2024. The Applicant accepted it had been lodged with Safe Deposits Scotland on 7 February 2025 and notification of that was given to him. He believed the deadline for lodging the deposit had elapsed the week before it had been lodged. The tenancy ended on 28 January 2026. He did not have any further submissions to make in addition to that accompanying the application.
- 2.5 The Tribunal indicated the Case Management Discussion would be adjourned and a written outcome would be issued.

3. Findings In Fact

- 3.1 The parties entered into a private residential tenancy agreement at the Property which commenced on 18 December 2024.
- 3.2 The Applicant made payment of a deposit of £1000.00 in connection with the tenancy. Payment of the deposit was made on 12 December 2024.
- 3.3 The tenancy ended on 31 January 2026.
- 3.4 The deposit was lodged with Safe Deposits Scotland on 7 February 2025.
- 3.5 The Respondent made payments to Safe Deposits Scotland on a monthly basis which caused a delay in the Applicant's deposit being paid over.

4. Finding In Fact & Law

- 4.1 The Respondent is in breach of Regulation 3 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 by virtue of their failure to lodge the deposit within an approved tenancy deposit scheme within thirty working days of the commencement of the tenancy.

5. Reasons For Decision

5.1 The Tribunal considered that the factual background to the application was sufficiently agreed that it could decide the application and a hearing was unnecessary. The Applicant did not take issue with the Respondent's explanation as to the late lodging of the deposit. The Tribunal proceeded to determine the application based on the representations made by the parties, insofar as they were determined to be relevant.

5.2 It was not in dispute that a deposit of £1000.00 had been paid in connection with the parties agreement and that this had not been lodged with an approved scheme until 7 February 2025. The duties in respect of a deposit are set out in regulation 3 of the 2011 Regulations, which are as follows:-

3.(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.

(2) The landlord must ensure that any tenancy deposit paid in connection with a relevant tenancy is held by an approved scheme from the date it is first paid to a tenancy deposit scheme under paragraph (1)(a) until it is repaid in accordance with these Regulations following the end of the tenancy.

(2A) Where the landlord and the tenant agree that the tenancy deposit is to be paid in instalments, paragraphs (1) and (2) apply as if—

(a) the references to deposit were to each instalment of the deposit, and

(b) the reference to the beginning of the tenancy were to the date when any instalment of the deposit is received by the landlord.

(3) A “relevant tenancy” for the purposes of paragraphs (1) and (2) means any tenancy or occupancy arrangement—

(a) in respect of which the landlord is a relevant person; and

(b) by virtue of which a house is occupied by an unconnected person, unless the use of the house is of a type described in section 83(6) (application for registration) of the 2004 Act.

(4) In this regulation, the expressions “relevant person” and “unconnected person” have the meanings conferred by section 83(8) of the 2004 Act.

5.3 In terms of Regulation 3 of the 2011 Regulations, the Respondent was obliged to lodge the deposit with an approved third party scheme within 30 working days of receipt of the instalments of the deposit. Therefore, the Respondent ought to have lodged the deposit with a scheme no later than 5 February 2025, accounting for the bank holidays over the festive period.

The Respondent had failed to lodge the deposit within the prescribed time frame.

- 5.4 Regulation 10(a) of the 2011 Regulations requires the Tribunal to make an order for payment in favour of the Applicant where the Respondent has breached the aforementioned duties. In that, the Tribunal has no discretion. The discretion of the Tribunal is limited to the amount the Respondent must pay which must not exceed three times the deposit taken. The Tribunal could therefore make an order for an amount up to £3000.00. In the application form, the Applicant contended that an order for payment of £1000.00 should be made. In their written representations, the Respondent accepted the failure and submitted that an order for payment of £100.00 would be appropriate.
- 5.5 In determining the appropriate sum, the Tribunal approached the matter of the amount by following the Upper Tribunal's reasoning in *Ahmed v Russell* 2023 S.L.T. (Tr) 33. The order for payment was a sanction upon the Respondent, not compensation for the Applicant, and ought to reflect the level of overall culpability measured against the nature and extent of the breach.
- 5.6 In the present case, the deposit had been lodged only two days past the deadline for doing so. The Tribunal considered this to be at the lowest end of the scale in terms of the severity of the breach. The Tribunal considered the award sought by the Applicant would be grossly disproportionate to the extent of the breach. The Tribunal preferred the submission of the Respondent and selected the sum of £100.00 as appropriate in the circumstances.
- 5.7 The parties had lodged representations relating to the performance of other obligations under the tenancy agreement including the condition of the Property at the end of the tenancy, the length of time repairs took to complete and the charging of what may or may not be an unlawful premium in connection with the tenancy. Although these may have been the subject of dispute, the Tribunal placed no weight on these matters, given that they were not relevant to extent of the breach or culpability of the Respondent. A hearing was not necessary to consider evidence relating to these issues. Should either party wish to pursue any loss connected to these issues, the present application is not the appropriate forum for those to be considered.

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.

Alastair Houston

Legal Member/Chair

18 September 2026
Date