

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“The Regulations”)

Chamber Ref: FTS/HPC/PR/26/0300

Re: Property at 44 Shore Road, Stevenston, KA20 3LP (“the Property”)

Parties:

Mrs Diane Devlin-McLean, 49 Pollock Crescent, Kilwinning, KA13 6HP (“the Applicant”)

Mr David Bradley, 66 Shore Road, Stevenston, KA20 3LP (“the Respondent”)

Tribunal Members:

Robert MacDonald (Legal Member)

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the Sum of One thousand pounds (£1000) Sterling to the Applicant.

Background

1. By application dated 20th January 2026 the Applicant sought an order for payment in respect of the failure of the Respondent to comply with Regulation 3 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 (“The 2011 Regulations”). The Applicant complained that the Respondent had failed to lodge her deposit of £465 in respect of a Private Residential Tenancy (“the tenancy”) with an Approved Tenancy Deposit Scheme provider.
2. The application was accepted by the Tribunal on 26th February 2026. A Case Management Discussion was assigned for 27th August 2026 at 10.00 am by teleconference. A copy of the application was served on the Respondent by Sheriff Officer depositing it at his place of residence on 27th July 2026. The Respondent was invited to lodge written submissions with the Tribunal by the 14th August 2026. No submissions were received by the Tribunal.

Case Management Discussion

3. A Case Management Discussion was held by teleconference at 10am on 27th August 2026. The Applicant was present together with her representative Ms Andrea Gibson, CHAPS, Ardrossan. The Tribunal delayed starting until 10.10 to give the Respondent an opportunity to appear. As there had been no prior submission made by the Respondent and the Tribunal was satisfied that he had been given due notice of the Case Management Discussion, the Tribunal decided that the Case Management Discussion should proceed in his absence.

The Applicants Submission

4. Ms Gibson confirmed to the Tribunal that the Applicant had paid a deposit of £465 to the Respondent at the start of the tenancy. The duration of the tenancy was significant, the start date being 3rd November 2020 and the end date being 2nd December 2025. The Respondent had served notice on the Applicant to bring the tenancy to an end. The Applicant advised that there have been outstanding repairs for a few years and the Respondent had concluded that he wanted to sell the property. It has now been sold.
5. When the Applicant sought return of her deposit from the Respondent it had become apparent that the Respondent had not placed it on with a recognised tenancy deposit scheme provider. Inquiries were made with the three companies that were recognised deposit scheme providers in Scotland, and they confirmed that the deposit had not been protected. Copies of the responses from the companies involved were provided to the Tribunal. The Applicant had sent text messages to the Respondent requesting payment which were produced. When she did not get a response she engaged the services of CHAPS in Ardrossan. They sent emails to the Respondent, none of which were acknowledged. In May 2026, the tenancy deposit was eventually paid back into the Applicants bank account in two payments of £365 and £100.
6. The Applicant advised the Tribunal that she understood that the Respondent had had two rental properties in Ardrossan and two in Aberdeen. She didn't have any other information about his personal circumstances.
7. The Applicant advised that the impact of the Respondent's failure to place the deposit on with a recognised tendency deposit scheme provider was that she was placed in the invidious position of having to chase the Respondent for recovery of her funds. By her account there was a significant delay in the deposit being repaid to her. She explained that this delay had caused her some financial difficulty and that she had to borrow money to enable her to move into a new tenancy. The Respondent's failure had caused her additional inconvenience and stress.
8. The Tribunal advised the Applicant that it would take some time to consider the documentation lodged in support of the application and the submission made

at the Case Management Discussion and would issue its decision in due course.

Findings in Fact and Law

9. The parties entered into a Private Residential Tenancy Agreement which commenced on 3rd November 2020.
10. The Applicant paid a deposit of £465 to the Respondent at the commencement of the tenancy.
11. The Private Residential Tenancy Agreement provided that the tenancy deposit scheme administrator would be Letting Protection Service Scotland
12. The Respondent failed to lodge the deposit of £465 with Letting Protection Service Scotland or with another approved tenancy deposit scheme as he was obliged to do under Regulation 3 of the 2011 Regulations.
13. The tenancy ended on 2nd December 2025.
14. The Respondent failed to return the tenancy deposit to the Applicant until May 2026.
15. The Respondent was in breach of his duties under Regulation 3 of the 2011 Regulations which provide:-

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.

(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.

(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.

16. As a result of Respondent's failure, the Applicant was deprived of her right to seek return of the tenancy deposit from a tenancy deposit scheme provider at the end of the tenancy.
17. The Applicant's tenancy deposit was unprotected throughout period of the tenancy.
18. The Respondents conduct in failing to protect the deposit and in delaying in repaying the deposit to the Applicant caused her financial difficulties and inconvenience.
19. The Tribunal must grant an order in terms of Regulation 10 which provides

10. If satisfied that the landlord did not comply with any duty in regulation 3 the sheriff—(a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit;

20. Rule 17 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 allows the Tribunal to do anything at a Case Management Discussion which it may do at a Hearing including making a decision. The Tribunal was satisfied that there was sufficient information available to it to make a decision at a Case Management Discussion.
21. The Tribunal was satisfied that the Respondent had failed to comply with the duties set out in Regulation 3. The deposit had not been placed with a scheme administrator of an approved scheme at any time during the tenancy.
22. The Tribunal determined that the Respondents failure to lodge the deposit with an approved Tenancy Deposit Scheme was serious. He had failed to engage with the Tribunal. He had not submitted any written submission setting out his position, nor had he attended the Case Management Discussion.
23. The Tribunal noted that that tenancy deposit was unprotected throughout the entire 5 year term of the tenancy and that the Respondent had failed to promptly repay it to the Applicant when requested.
24. The Tribunal accepted the Applicants unchallenged evidence that the failure to comply with the terms of the regulations had resulted in her suffering financial difficulty and significant inconvenience.
25. The 2011 Regulations had been in place for almost a decade prior to the commencement of this tenancy agreement. The onus lay with the Respondent as a landlord to familiarise himself with the legal requirements imposed on landlords in terms of the Regulations. The purpose of the Regulations is to protect tenants' deposits and to avoid tenants being disadvantaged when tenancies come to an end, as there is an independent adjudication process to resolve any disputes between landlords and tenants which is carried out by the approved deposit scheme.
26. In terms of Regulation 10 if it is satisfied that the landlord did not comply with their obligations under Regulation 3 the Tribunal is required to make a payment

order of up to 3 times the deposit. In this case the maximum penalty the Tribunal could impose is £1395.

27. Having considered all the facts and circumstances of this particular case, the Tribunal took the view that the Respondent's failure was serious and prolonged. Nothing was put forward in mitigation. The purpose behind the Regulations had been circumvented by the failure to place the deposit on with an approved tenancy deposit scheme provider.

Decision

28. The Tribunal decided that a fair, reasonable and proportionate sum that the Respondent should be ordered to pay to the Applicant would be one thousand hundred pounds (£1000).

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.

Robert MacDonald

27.08.2026

Legal Member/Chair

Date