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 regulations 9 and 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011, as amended ("2011 Regulations")

Chamber Ref: **FTS/HPC/PR/25/4360**

Property: **1 Paton Place, Perth, PH1 0AY ("the Property")**

Parties:

Mr Constantin Negoita, 1 Paton Place, Perth, PH1 0AY ("the Applicant")

Sigma PRS Northern (Bertha Park) Limited, a company incorporated under the Companies Acts (with registered number 12323666) and having its registered office address at 1st Floor, 55 Strand, London, United Kingdom, WC2N 5LR ("the Respondent")

Tribunal Members:

Pamela Woodman (Legal Member) and Helen Barclay (Ordinary Member)

Present:
The hearing took place at 10am on Thursday 27 August 2026 by teleconference call (**"the Hearing"**). The Applicant was present. The Respondent was represented by Mr Adam Stephenson of Ascend Properties Limited. Mr Ashley Jones of Ascend Properties Limited was also in attendance. The clerk to the Tribunal was Danielle Torbet.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment of £1,815 be made against the Respondent in favour of the Applicant.

BACKGROUND

1. An application was made to the Tribunal under regulation 9 of the 2011 Regulations and in accordance with the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (**"HPC Rules"**) which are set out in the

schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. More specifically, the application was made in terms of rule 103 *(Application for order for payment where landlord has not paid the deposit into an approved scheme)* of the HPC Rules.

2. The applicant was requesting that the Tribunal "make an order requiring the landlord/agent to pay… a sanction of up to three times the deposit amount, in accordance with Rule 103".

3. The application form was dated 2 October 2025 and was accepted by notice from the Tribunal dated 21 October 2025.

4. A case management discussion had been held on 18 March 2026 at which the Applicant was present and the Respondent was represented by individuals from Ascend Properties Limited.

5. Regulation 9(1) of the 2011 Regulations is in the following terms:

   "A tenant who has paid a tenancy deposit may apply to the First-tier Tribunal for an order under regulation 10 where the landlord did not comply with any duty in regulation 3 in respect of that tenancy deposit."

6. Regulation 3(1) of the 2011 Regulations is in the following terms:

   "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."

7. Regulation 9(2) of the 2011 Regulations is in the following terms:

   "An application under paragraph (1) must be made no later than 3 months after the tenancy has ended."

8. Regulation 10 of the 2011 Regulations is in the following terms:

   "If satisfied that the landlord did not comply with any duty in regulation 3 the First-tier Tribunal –

   a. must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit; and

   b. may, as the First-tier Tribunal considers appropriate in the circumstances of the application, order the landlord to –

      i. pay the tenancy deposit to an approved scheme; or

      ii. provide the tenant with the information required under regulation 42."

9. This case related to a tenancy agreement between the Applicant and Desislava Borisova (as tenants) and the Respondent (as landlord) (**"Tenancy Agreement"**), the copy of which provided to the Tribunal was undated but signed by or on behalf of all three parties.

10. The Applicant had confirmed that he was the sole applicant in this case as it was he who had paid the deposit and his joint tenant agreed that she did not require to be added as a joint applicant.

11. By letter dated 17 February 2026, the Respondent's agents submitted the following to the Tribunal:

    "We acknowledge that this represents a breach of deposit protection legislation and wish to place on record our sincere apologies to the complainant. Please find below our explanation of the process and events relevant to this case.

    The transferring of deposit funds is an accounting task initiated when a tenancy progresses from 'proposed' to 'confirmed'. This occurs once referencing has passed, all upfront funds have been paid, and the tenancy agreement has been signed.

    When a tenancy is confirmed, the security deposit funds are automatically moved from the reserve account into a designated deposit account, either 'Tenancy Deposit Scheme (TDS)' or 'SDS Custodial', for which we hold Client Money Protection (CMP).

    The deposit registration process operates via API integration between our internal management system and the SDS portal. In this case, a failure in system communication occurred at the point the deposit should have been registered. This failure was not apparent at the time and was identified only through retrospective review. Upon discovery, the matter was promptly investigated and rectified. Subsequent checks and monitoring have not identified any recurrence of this issue.

    We deeply regret the length of time for which this error remained unnoticed. However, we wish to reassure the Tribunal that the funds were at all times held in a segregated client account, separate from rental funds, and remained protected from any performance-of-contract matters during this period."

12. By e-mail dated 28 February 2026, the Applicant submitted the following:

    "While the Respondent acknowledges that the tenancy deposit was not registered within the required timescale and accepts that this represents a breach of the Tenancy Deposit Schemes (Scotland) Regulations 2011, I respectfully submit that the reason provided — namely an internal system communication failure — does not mitigate the breach nor diminish its impact on me as the tenant.

    The responsibility to ensure that a deposit is properly lodged with an approved Tenancy Deposit Scheme within the statutory timeframe rests solely with the landlord or their appointed agent. Any internal administrative, accounting, or *technical failures are matters entirely within the Respondent's control and cannot reasonably be transferred to or borne by the tenant.*

As a tenant, I had no oversight, involvement, or ability to verify whether the deposit had been protected in compliance with the Regulations. The failure to register the deposit correctly and within the prescribed period directly affected my statutory protection and the legal safeguards afforded to me under the legislation.

The Regulations are clear in their purpose: to ensure transparency, accountability, and protection of tenants' funds. Compliance is not discretionary and cannot depend on internal processes functioning correctly. It is the landlord's obligation to ensure systems are robust enough to meet legal requirements.

While I note the Respondent's apology and explanation, I respectfully submit that an administrative or technical error does not remove liability nor reduce the seriousness of the breach. The fact remains that the deposit was not protected in accordance with the statutory requirements, and that failure directly impacted my legal position as tenant.

I therefore ask the Tribunal to consider that the breach occurred regardless of the explanation provided, and that the consequences of that breach fall upon the tenant, not the landlord."

PROCEEDINGS

13. The parties agreed that the tenancy had come to an end on 20 July 2026.

14. Given that the Respondent had admitted the failure to comply with the 2011 Regulations in relation to the late lodging of the tenancy deposit, the Chair explained that the matter for determination by the Tribunal was one of quantum of the order for payment to be issued.

15. Both parties were asked for their submissions as to the appropriate amount of a "fair, proportionate and just sanction" in the circumstances of this case.

16. The Applicant submitted that the appropriate amount for the order should be three times the tenancy deposit amount (i.e. the maximum possible) given that there had been a "big delay" in lodging the tenancy deposit and that he had not been aware that the tenancy deposit had not been lodged until he received the communication from SafeDeposits Scotland. He noted that the position would have been different had the Respondent, or its agents, communicated with him to explain the delay.

17. The Applicant submitted that blaming the failure to comply on a system error was not a good reason to avoid any sanction.

18. The Applicant confirmed that the full amount of the tenancy deposit had been returned to him following termination of the tenancy.

19. The Respondent's representative confirmed the failure to comply with the 2011 Regulations and acknowledged that the Respondent would be ordered to pay an amount.

20. The Respondent's representative submitted that an order for one and a half times the tenancy deposit amount would be appropriate. He explained that the Respondent's agents were the first to test a new API in Scotland to integrate with SafeDeposits Scotland – he described them as "guinea pigs". The Respondent's representative confirmed that, when it was discovered that there had been a system error and the tenancy deposit had not been registered, the situation was rectified and the tenancy deposit lodged.

21. The Respondent's representative confirmed that a "handful" of tenancy deposits had not been registered as a result of the issue with the API and that there had been three other cases with the Housing and Property Chamber, in each of which the order had been made for one and a half times the tenancy deposit. He explained that the system was now fully up and running and so fully automated but that they had also introduced a weekly manual check and so the same issue had not recurred since.

22. The Respondent's representative noted that, as a matter of fact, there had been no actual hardship to the Applicant as a result of the failure to comply.

23. The Tribunal noted that they were not bound by the submissions of either party on quantum and that it would exercise its discretion in that respect.

FINDINGS OF FACT

24. The tenancy ended on 20 July 2025 and so the application had been made in time in terms of the timescale set out in the 2011 Regulations.

25. The Tenancy Agreement stated that:

    a. the tenancy commenced on 7 April 2025;

    b. rent was payable at a rate of £1,050 per calendar month from the tenancy commencement date; and

    c. a deposit of £1,210 was payable (and, based on the credit card entry produced, had been paid on or before the tenancy commencement date).

26. The deposit was paid on 27 March 2025.

27. The deposit was lodged with SafeDeposits Scotland on 29 September 2025.

REASONS FOR DECISION

28. Based on a tenancy commencement date of 7 April 2025, the tenancy deposit should have been lodged with a tenancy deposit scheme "within" 30 working days

of 7 April 2025 and so on or before 21 May 2025 (it being noted that 18 April 2025 and 5 May 2025 had been public holidays).

29. The Respondent had failed to comply with its duties as landlord in terms of regulation 3 of the 2011 Regulations. Accordingly, the Tribunal was required to make an order in terms of regulation 10 of the 2011 Regulations of “an amount not exceeding three times the amount of the tenancy deposit” (so of between £1 and £3,630).

30. The Respondent’s agent had admitted the failure to comply in its submissions to the Tribunal after being served with the case papers.

31. This was not a case where the tenancy deposit had never been protected nor one where it had not been protected for a number of years.

32. In determining what would be a “fair, proportionate and just sanction” in the circumstances of this particular case, the Tribunal was satisfied, on the balance of probabilities, that:

    a. There had been a delay of just over 4 months in lodging the tenancy deposit with an approved scheme and so the tenancy deposit was not protected in an approved scheme for that period;

    b. The Respondent had lodged the tenancy deposit, albeit late, without being prompted by the Applicant;

    c. Whilst there was the potential for the Applicant to be prejudiced by the failure to lodge the tenancy deposit in an approved scheme, as a matter of fact he had not suffered any financial loss or other detriment as a result of the delay, and indeed he was not aware of any delay until informed of same in September 2025, when he received the communication from Safe Deposits Scotland;

    d. The tenancy deposit had been repaid in full to the Applicant following the termination of the tenancy;

    e. There had been no wilful attempt by the Respondent (or the letting agents) to avoid compliance with the legislation; and

    f. The seriousness of the breach in this particular case was relatively low taking into account the above factors; but

    g. This was not an isolated, one-off case and there had been other tenancies where the Respondent had failed to lodge the tenancy deposit within the statutory timescale.

DECISION

33. The Tribunal decided that a fair, proportionate and just sanction in the circumstances of this particular case was for the Respondent to be ordered to pay the Applicant an amount of £1,815 (one thousand eight hundred and fifteen pounds sterling) as a result of the Respondent's failure to comply with its duties in regulation 3 of the 2011 Regulations.

Right of Appeal

In terms of Section 46 of the Tribunals (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.

P S Woodman	*27 August 2026*
Legal Member	**Date**