



Decision with Statement of Reasons 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/25/4988

Re: Property at 9B Wallfield Place, Aberdeen, AB25 2JS ("the Property")

Parties:

Miss Lara Mertes, Mr Benjamin Fuller, 69a Powis Place, Aberdeen, AB25 3TT ("the Applicant")

Mr David Smith, 7 Queens Gardens, Aberdeen, AB15 4YD ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision (in absence of the Respondent)

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") made an award in terms of Regulation 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011 ordering that the Respondent pay the Applicant the sum of £20.00.

Background

[2] The Applicant seeks an award under the Regulations in respect of the alleged failure of the Respondent to lodge a relevant tenancy deposit paid to them within 30 days as required by Regulation 3.

Prior Procedure

[3] The Application called for a Case Management Discussion (CMD) by conference call at 2pm on 17 September 2026. The Applicants were both present. Mr Strachan of Capital

Letters appeared for the Respondent. It was accepted by all that the Respondent had registered the Applicant's £525.00 deposit into an approved scheme two days late in terms of their obligations under the Regulations to register the deposit within 30 working days.

[4] The facts were not complicated and the Tribunal considered whether only a full Tribunal should decide what, if any, award ought to be made under the Regulations after hearing evidence and submissions. However, the Tribunal decided that given the delay was only two days, this Application ought to be disposed of at the earliest opportunity and a decision should be made today.

The Hearing

[5] The Applicants had very little to say beyond the terms of their Application which was self-explanatory. The Respondent received the deposit on 9 April 2025 and it was not registered until 27 May 2025. Mr Strachan apologised and explained that it was a one-off admin error and an unfortunate mistake. Capital Letters (the Respondent's letting agency) managed the tenancy for the Respondent and accepted responsibility. There was little more to say about the matter by either party.

[6] Having heard from parties, the Tribunal made the following findings in fact.

- 1) *The Respondent let the Property to the Applicants with a tenancy commencing on 9 April 2025.*
- 2) *At the commencement of the tenancy, the Applicants paid the Respondent a tenancy deposit in the sum of £525.00.*
- 3) *The Respondent registered the deposit into an approved scheme on 27 May 2025 which was 2 days late.*

Decision.

[7] Having made the above findings in fact, the Tribunal had to determine what, if any, award ought to be made under Regulation 10. The Tribunal proceeded on the basis that the determination of the award required the Tribunal to exercise its judicial discretion to consider what would be fair, proportionate and just in the circumstances of the case.

[8] In forming its approach to where this particular breach sat on the scale of sanctions open to the Tribunal, the Tribunal had regard to the decision of Sheriff Cruickshank in *Ahmed v Russell* (UTS/AP/22/0021), which provides helpful guidance on the assessment of an appropriate sanction. In doing so, the Tribunal requires to identify the relevant aggravating and mitigating factors and apply appropriate weight to them in reaching its decision. The Tribunal is then entitled to impose a fair, proportionate and

just sanction of between £1 and three times the amount of the tenancy deposit, which in this case would be £1,500. As Sheriff Cruickshank observed at paragraph 39 of *Ahmed*:

"The sanction which is imposed is to mark the gravity of the breach which has occurred. The purpose of the sanction is not to compensate the tenant. The level of sanction should reflect the level of overall culpability in each case measured against the nature and extent of the breach of the 2011 Regulations."

[9] The Tribunal considered that the breach was minor and almost a technical breach with no negative consequences for the Applicants. The Tribunal could find no aggravating factors.

[10] Balancing all of these factors, and applying the guidance in *Ahmed*, the Tribunal determined that a sanction of £20.00 was fair, proportionate and just. The Tribunal considered that the sum of £10.00 for each day the deposit was late was a common-sense method of assessing what award should be made in such an Application.

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.

Andrew McLaughlin

Legal Member/Chair

—

17 September 2026
Date