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 The Housing (Scotland) Act 2006 Section 121 and Regulations 9 and 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref : FTS/HPC/PR/26/2132

Re: Property at 15 George Street, Coupar Angus, Blairgowrie, PH13 9DH ("the Property")

Parties:

Mr Muhammad Awais, Mr Muhammas Bilal Iqbal, 3 The Assembly Room, George Street, Coupar Angus, Blairgowrie, PH13 9DH; 3 The Assembly Room, George Street, Coupar Angus, Blairgowrie ("the Applicant")

Sams Rental Properties Ltd, Woodlands Cottage, High Street, Rattray, Blairgowrie, PH10 7BT ("the Respondent")

Tribunal Members:

Hilary Macandrew (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment is made in favour of the Applicant due by the Respondent in the sum of £695 (SIX HUNDRED AND NINETY-FIVE POUNDS ONLY).

1) Background

1.1 The Applicant made an application in Form G ("application") on 12th May 2026 under Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules") stating that the Respondent had failed to timeously lodge a tenancy deposit in an appropriate scheme in breach of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("2011 Regulations"). The Application was accepted on 1st June 2026. A Case Management Discussion (CMD) was fixed for 9th October 2026 in relation to this Application

1.2 The documents produced to the Tribunal by the Applicant were:

- Copy Tenancy Agreement
- Evidence of date of end of the tenancy
- Written confirmation from three tenancy deposit schemes
- Bank transfer transaction vouching
- Deposit protection certificate
- Correspondence emails

1.3 The document produced to the Tribunal by the Respondent was a detailed written submission accepting the late lodging and providing an explanation.

2) Case Management Discussion

2.1 A Case Management Discussion ("CMD") took place by teleconference on 9 October 2026. The Applicant Mr Awais took part personally and on behalf of the Applicants. The Respondent took part personally and was supported by her sister Miss Young.

2.2 The Applicant sought a penalty to be made against the Respondent for her failure to lodge the deposit with an approved tenancy deposit scheme within 30 days of the payment of the deposit. The deposit he said was £1390 based on the equivalent of two months' rent. The initial rent was £695 per month. He paid the deposit by instalments of £695 on 3rd December 2024 and £400 on 8th August 2025. He made two further payments towards the deposit of £146.66 each in February and March 2026. The two instalments of £695 and £400 were not safeguarded and were not paid into a tenancy deposit scheme until 10th March 2026.

2.3 The Respondent explained that the deposit in terms of the Tenancy Agreement was equivalent to two months' rent which at the outset of the lease was £695 per month. She accepted that the payments of £695 and £400 towards the deposit were unprotected. She disagreed with the actual deposit figure as there had been additional tenants added to the lease which increased the rent., and it follows the deposit which was to equate to two months' rent. The actual sum deposited in the tenancy deposit scheme was £1445.00. The tenancy has ended. The sum of £1345 was returned at the end of the tenancy from the deposit by agreement, due to a £100 reduction for damage.

2.4 The Respondent explained that she was an inexperienced landlord when the tenancy commenced. She had misunderstood the tenancy deposit arrangement to mean that the deposit was lodged in a tenancy deposit scheme once it had been paid in full rather than as each instalment is paid. Although the deposit had not initially been dealt with correctly, there was no delay in returning it at the end of the tenancy.

2.5 The Tribunal had before it vouching in respect of the terms of the Tenancy Agreement providing for a deposit to be paid, vouching in respect of the

payment of the deposit and correspondence between parties establishing that a deposit had been paid. Furthermore, the Tribunal had before it correspondence that the deposit instalments amounting to £1095 had not been paid into an approved tenancy deposit scheme timeously.

3) Decision

3.1 The Respondent has breached Regulation 3 by failing to pay £1095 of the deposit into an approved tenancy deposit scheme timeously.

3.2 The Tribunal makes an Order for payment by the Respondent to the Applicant of the sum of Six Hundred and Ninety-Five Pounds (£695)

4) Reasons for Decision

4.1 The Respondent has accepted that the sum of £1095 being part of a deposit was not paid into an approved tenancy deposit scheme timeously.

4.2 The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. The Tribunal was satisfied both that the necessary level of evidence had been provided through the application, at the CMD and at the CCMD in writing and orally and that it was appropriate to make a decision under regulation 10 of the 2011 Regulations at the CMD.

4.3 The Tribunal was satisfied that the evidence provided by the Applicant and the Respondent was credible and reliable on the material issue of the application, namely that £1095 had not been lodged timeously. Regulation 10 of the 2011 Regulations states that if satisfied that the landlord did not comply with the duty in Regulation 3 to pay a deposit to the scheme administrator of an approved scheme within 30 working days of the deposit instalment being paid, the Tribunal must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit. In this case the Respondent did not lodge the two deposit instalments with an approved scheme within the 30-working day period.

4.4 The Tribunal had regard to Upper Tribunal authorities in similar cases, in particular *Rollett v Mackie [2019] UT 45* and *Ahmed v Russell [2023] UT 7*.

In Rollett, above, Sheriff Ross said [at para 9] that:

'Each case has to be examined on its own facts, upon which a discretionary decision requires to be made by the FTT. Assessment of what amounts to a "serious" breach will vary from case to case – it is the factual matrix, not the Page 5 or 6 description, which is relevant. Comparison with other cases is therefore of minimal assistance in the present case. The general principles of the law apply and these include that for a discretionary decision to be overturned it must be one which no reasonable tribunal could make.'

And further [at para 13]:

'In assessing the level of a penalty charge, the question is one of culpability and the level of penalty requires to reflect the level of culpability. Examining of the FTT's discussion of the facts, the first two features (purpose of Regulations; deprivation of protection) are present in every such case. The question is one of degree and these two points cannot help on that question. The admission of failure tends to lessen fault; a denial would increase culpability. The diagnosis of cancer also tends to lessen culpability, as it affects intention. The finding that the breach was not intentional is therefore rational on the fact and tends to lessen culpability.'

In *Ahmed*, above, Sheriff Cruickshank outlined the purpose and policy objectives of the Regulations [at para 19] and referred to Sheriff Ross's '*helpful summary*' *Rollett*, above [at para 29], stating:

'Furthermore, in Rollett, Sheriff Ross considered that in assessing the level of sanction the question was one of culpability. When it came to the level of sanction the question was one of degree and provided examples of the factors which could lessen or increase the level of culpability' [at para 30].

4.5 In the present case, the Tribunal took the approach of establishing the facts and then considering any aggravating and mitigating factors to determine culpability of the Respondent and decide on the appropriate level of sanction.

4.6 The Tribunal considers the fact that the Respondent was an inexperienced landlord at the start of the tenancy and had misunderstood her duties in terms of Regulation 3 of the said Regulations as material. The deposit had ultimately been secured and was repaid, less an agreed sum at the end of the tenancy.

4.7 The amount to be awarded is a matter for the discretion of the Tribunal having regard to the factual matrix of the case before it. The Tribunal considered the comments of Sheriff Ross in *Rollett v Mackie* UTS/AP/19/0020. At para 13 and 14 he considered the assessment of the level of penalty and said:

"[13] In assessing the level of a penalty charge, the question is one of culpability, and the level of penalty requires to reflect the level of culpability. Examining the FtT's discussion of the facts, the first two features (purpose of Regulations; deprivation of protection) are present in every such case. The question is one of degree, and these two points cannot help on that question. The admission of failure tends to lessen fault: a denial would increase culpability. The diagnosis of cancer also tends to lessen culpability, as it affects intention. The finding that the breach was not intentional is therefore rational on the facts, and tends to lessen culpability.

[14] Cases at the most serious end of the case might involve: repeated breaches against a number of tenants; fraudulent intention; deliberate or reckless failure to observe responsibilities; denial of fault; very high financial

sums involved; actual losses caused to the tenant, or other hypotheticals. None of these aggravating factors is present."

4.8 Applying Sheriff Ross's reasoning in *Rollett* to the current case, the purposes of the 2011 Regulations are to ensure that a tenant's deposit is insulated from the risk of insolvency of the landlord or letting agent, and to provide a clear adjudication process for disputes at the end. The Tribunal is satisfied that this case falls in the lower range of the scale of seriousness of breaches. The deposit instalments were unprotected however there was communication between the Applicant and Respondent ongoing regarding the tenancy and the Respondent showed considerable goodwill to the Applicant in permitting the deposit to be paid in instalments for almost the full duration of the tenancy. The sum equivalent to one half of the original deposit of £1390 was considered by the Tribunal to be reasonable in all the circumstances.

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.

Hilary Macandrew

9th October 2026

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Legal Member/Chair **Date**