

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Regulation 10 of the Tenancy Deposit
Scheme (Scotland) Regulations 2011 (“the 2011 Regulations”)**

Chamber Ref: FTS/HPC/PR/26/0859

**Re: Property at 7 Edmond Terrace, Croftamie, Glasgow, G63 0ER (“the
Property”)**

Parties:

**Mrs Marion Furlonger, 12 Campbell Terrace, Dumbarton, G82 3PA (“the
Applicant”)**

**Ms Caitlin Boag, Ms Amy Boag, 11 Cowbowie Crescent, Buchlyvie, Stirling,
FK8 3NH (“the Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the duties in relation to the Applicant’s tenancy deposit under regulation 3 of the Tenancy Deposit Scheme (Scotland) Regulations 2011 (“the 2011 Regulations”).

The Tribunal therefore made an order for payment against the Respondents in the sum of One thousand two hundred pounds (£1200) Sterling.

Background

- 1 This is an application under regulation 9 of the 2011 Regulations and rule 103 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant sought a determination that the Respondents had failed to comply with their duties under regulation 3 of the 2011 Regulations along with a payment order of up to three times the amount of the deposit.
- 2 In terms of regulation 9 of the 2011 Regulations, an application under rule 103 must be made within three months of the end date of the tenancy. The tenancy

between the parties terminated on 28 December 2025. The application was made to the Tribunal on 22 February 2026. The application is therefore timeous.

- 3 The application was accepted as valid and referred to a tribunal for determination. A case management discussion ("CMD") was scheduled to take place by teleconference on 27 August 2026 at 10am. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order. The parties were also advised that if they did not attend the CMD this would not stop a decision or order being made if the tribunal considers that it had sufficient information before it to do so and the procedure had been fair.
- 4 The notice together with a copy of the case papers was served upon the Respondents by sheriff officers on 28 July 2026 and required the Respondents to make written representations in response to the application no later than 14 August 2026.
- 5 No written representations were received from the Respondents in advance of the CMD.

The CMD

- 6 The CMD took place on 27 August 2026 by teleconference. The Applicant joined the call. The Respondents did not. The tribunal noted they had been given notice of the CMD and had not provided any written representations in response to the application, nor had they provided any explanation for their failure to attend. The tribunal therefore delayed the start time of the CMD for a short period before determining to proceed in their absence.
- 7 The tribunal had before it the application form together with supporting documents including private residential tenancy agreement, screenshots of messages between the parties, and correspondence from SafeDeposits Scotland.
- 8 The tribunal explained the purpose of the CMD and proceeded to hear submissions on the application from the Applicant. The following is a summary of the key elements of the submissions.
- 9 The Applicant confirmed that her tenancy had commenced on 12 July 2025. In terms of regulation 3 of the 2011 Regulations, the deposit should have been lodged with a scheme by 22 August 2025. It was not lodged until 19 September 2025 after the Applicant had pressed the Respondents on the matter. The Respondents had not provided the Applicant with the information required under regulation 42 of the 2011 Regulations. She had received a text to confirm that the deposit had been paid into the scheme.

- 10 The Applicant explained that she had given notice to the Respondents to terminate the tenancy and had asked them to confirm that her deposit would be returned to her. The Respondents' representative had sent her a sharp response, essentially stating that it would take forever, that it was the Applicant who had insisted her deposit be lodged with a scheme, and wishing the Applicant luck. The Applicant had then requested her deposit be returned from the scheme directly. The Respondents had waited until the last minute until responding to the scheme, requesting a £200 deduction for decoration and gardening costs. The Applicant felt this was unfair. She was only in the property for 5 months. The decoration was for damp in the living room which was there when she moved in. The Respondents had promised to clear the garden but had not done so. The Applicant had paid £400 to do this herself. The Applicant had ultimately conceded the deductions as by that point she'd had enough.
- 11 The Applicant explained that she has been a tenant for 25 years. She recently moved up to Scotland to be closer to her daughter. She is a pensioner. Even before she moved in, she was chasing the Respondents to ensure her deposit was secured. They told her it wasn't an issue. The Applicant feels the Respondents do not accept their responsibilities and obligations as landlords. The Respondents have other rental properties. The Applicant is concerned they may treat other tenants in a similar manner. The Applicant believes the Respondents had no intention of securing her deposit. It wasn't until the Applicant wrote to the Respondents advising that she had telephoned the three deposit schemes and would take matters further, that her deposit was secured. The Respondents should respect their tenants. The Applicant believes the Respondents will continue to ignore their obligations as landlords if there are no consequences for their actions.

Findings in fact

- 12 The Respondents are the owners and landlord, and the Applicant was the tenant, of the property in terms of a private residential tenancy agreement, which commenced on 12 July 2025.
- 13 In terms of clause 10 of the tenancy agreement the Applicant undertook to pay a tenancy deposit of £1200 at the start date of the tenancy or before.
- 14 The Applicant paid the tenancy deposit to the Respondents prior to the start date of the tenancy.
- 15 The Respondents transferred the Applicant's tenancy deposit to SafeDeposits Scotland, an approved tenancy deposit scheme, on 19 September 2025. The Respondents did so only after the Applicant prompted them on several occasions.
- 16 The Respondents have other rental properties.

- 17 The Respondents did not provide the Applicant with the information required under regulation 42 of the 2011 Regulations.
- 18 On or around 1 December 2025 the Applicant texted the Respondents giving notice to terminate the tenancy and requesting the deposit be repaid to her. The Respondent's representative, Mr Stephen Boag, responded to the Applicant stating *"will try with deposit, however you insisted it was locked away in safe deposits, they can take months and months, otherwise I would have had it ready and handy"*.
- 19 The tenancy between the parties terminated on 28 December 2025.
- 20 The Applicant received a partial refund of her deposit in the sum of £1000.

Reasons for decision

- 21 The tribunal took into account all documents and submissions from the parties in its determination of the application. The tribunal considered it had sufficient information to make relevant findings in fact and reach a decision on the application in the absence of a hearing under Rule 18 of the Rules, and that to do so would not be contrary to the interests of the parties. The Respondents had not sought to produce any contradictory evidence to the tribunal.
- 22 The tribunal considered the provisions of regulations 3, 9 and 10 of the 2011 Regulations:-

"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."

“9.—(1) 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.

(2) An application under paragraph (1) must be made by summary application and must be made no later than 3 months after the tenancy has ended.”

“10. 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.”

- 23 The tribunal determined that the tenancy between the parties was a relevant tenancy for the purpose of regulation 3(3) of the 2011 Regulations having had sight of the private residential tenancy agreement between the parties.
- 24 The tribunal further determined that the Respondents was in breach of regulation 3(1) of the 2011 Regulations regarding the Applicants’ tenancy deposit because of their failure to timeously lodge the Applicant’s deposit with a scheme and provide the Applicant with the prescribed information prior to the statutory deadline. The Applicant had produced evidence from SafeDeposits Scotland which confirmed that her deposit had been lodged after the statutory deadline provided for in regulation 3(1) of the 2011 Regulations. The tribunal was also satisfied that the Applicant had not been provided with the prescribed information by the Respondents. No evidence of this had been provided by the Respondents.
- 25 The tribunal therefore considered regulation 10 which requires the tribunal to order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit. There is no discretion afforded to the tribunal under the 2011 Regulations. If the tribunal finds the landlord in breach of regulation 3, it must make an order for payment.
- 26 In determining an appropriate level of sanction, the tribunal considered the decisions from the Upper Tribunal for Scotland in *Rollett v Mackie* ([2019] UT 45) and *Ahmed v Russell* (UTS/AP/22/0021).
- 27 In *Rollett*, Sheriff Ross states at paragraph 9 of his decision 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 description, which is relevant”. He goes on to state at paragraph 14 that “Cases at the most serious end of the scale 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.”

- 28 In *Ahmed*, Sheriff Cruickshank also provides helpful guidance on the assessment of an appropriate sanction. In doing so the Tribunal must identify the relevant factors, both aggravating and mitigating, and apply weight to same in reaching its decision. The tribunal is then entitled to assess a fair and proportionate sanction to be anywhere between £1 and three times the sum of the deposit, which in this case is £3600. As per Sheriff Cruickshank at paragraph 39 of his decision in *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.”*
- 29 The tribunal considered the relevant factors in this case, both aggravating and mitigating.
- 30 In terms of regulation 3(1) the deposit should have been lodged with a scheme by 22 August 2025. There was a delay of around four weeks before the deposit was lodged with SafeDeposits Scotland on 19 September 2025. The Applicant’s deposit was therefore unsecured for a relatively short period of time after the statutory deadline. However, the deposit was only lodged after the Applicant pursued the Respondents and stated she would escalate the matter. The Respondents had not done so voluntarily. The text message sent to the Applicant by the Respondents’ representative, Mr Stephen Boag, demonstrates a thorough misunderstanding about the Respondents’ obligations in relation to tenant’s deposits. It suggests the Respondents would be entitled to hold the deposit, unsecured, in the absence of insistence by a tenant. The fact that the Respondents appear to hold such views demonstrates a complete lack of awareness of their responsibilities as landlords. Given that they have multiple rental properties, they should be well versed in their duties under the 2011 Regulations and the fact that they had taken this approach was a significant aggravating factor.
- 31 The tribunal also took into account the fact that the Respondents had not given the Applicant with the information prescribed under Rule 42 of the 2011 Regulations, more commonly known as a deposit protection certificate. Whilst the Applicant had been made aware by the deposit scheme that her deposit had been secured with them, the duty to provide the information under

regulation 42 is incumbent on the landlord. The fact that the Respondents had not provided the Applicant with the information was again evidence of their lack of care regarding their responsibilities as landlords.

- 32 The tribunal did however give weight to the fact that the Respondents had ultimately secured the Applicant's deposit in a tenancy deposit scheme, albeit under duress. One of the primary aims of the 2011 Regulations is to ensure tenants have access to the independent scheme dispute resolution process should any disputes arise. The Applicant was not deprived of this protection. She had the opportunity to challenge any deductions from her deposit through the proper channels, albeit she chose not to do so after her experience with the Respondents. The Applicant does not appear to have suffered any undue financial loss insofar as her deposit. These will generally be significant mitigating factors that weigh in favour of a lower award.
- 33 The Applicant had sought to introduce additional matters regarding the Respondents' conduct relating to the condition of the property and certification for gas installations. As explained to the Applicant during the CMD, these are not matters that are relevant to the tribunal's determination of an application under the 2011 Regulations. The tribunal can only take account of the circumstances surrounding the Respondents' handling of the tenancy deposit.
- 34 The tribunal therefore concluded that, having balanced the aggravating and mitigating factors in this case, an award towards the lower end of the scale was appropriate. The maximum the tribunal can award in this case is £3600. The tribunal therefore determined that a penalty of £1200 would be proportionate, fair and just.
- 35 The tribunal therefore made an order for payment in the sum of £1200.

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.

R OHare

27 August 2026

Legal Member/Chair

Date