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 Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/26/3455

Re: Property at 16/14 Westfield Road, Edinburgh, EH11 2QR ("the Property")

Parties:

Mrs Anna Remold, 33/1 Sighthill Gardens, Edinburgh, EH11 4PL ("the Applicant")

Ms Fidelia Odili, 84 Clyde Avenue, Bothwell, South Lanarkshire, G71 8DU ("the Respondent")

Tribunal Members:

Melanie Barbour (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that there had been a breach of the Tenancy Deposit Schemes (Scotland) Regulations 2011, and it would make an order for payment of £500.00 in favour of the Applicant

Background Discussion

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 103 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the 2017 Rules") seeking an order against the landlord for failure to lodge a tenancy deposit.

2. The application contained:-

a. Tenancy agreement;
b. Evidence from approved deposit schemes that they had not held the deposit for the property
c. Correspondence between the parties

3. On 27 October 2026, the respondent submitted written representations. The applicant had received a copy of the written representations.

4. The case called for a case management discussion (CMD) on 13 November 2026. Both parties appeared.

Discussion

5. Both parties agreed that the tenancy deposit had not been lodged with an approved scheme for the duration of the tenancy. They also both agreed it had therefore not been lodged within the 30 working day period. They also agreed that the deposit had been repaid, the only deduction being for a final portion of rent for the few days before the tenancy ended.

6. The applicant advised that the tenancy deposit had not been protected for the duration of the tenancy. She advised that she had understood it had been lodged from the terms of the tenancy agreement. She did not make any further checks at the beginning of the tenancy. The applicant advised that there had been disputes over a lock failing in the front door of the property. The landlord had been difficult about reimbursing her for the cost of this lock. She had become concerned about the landlord's conduct in relation to financial issues. She believed that had she not been aware of the tenancy deposit regulations, then the landlord would have made further deductions, and there would be nothing that the tenant could do about it. She decided to check the location of the deposit at that time. This was about the time she had submitted a notice to leave. She discovered the tenancy was not protected at that time. She contacted and messaged the landlord on a number of occasions, but the landlord ignored her and did not respond to her request for information regarding the location of her deposit. The landlord subsequently admitted that

the tenancy deposit had not been protected. She advised that for the duration of her tenancy she had missed out on that protection. She agreed that the only deduction which had been made to the deposit when it was repaid to her, was in relation to the outstanding rent. She said that had she not emailed the landlord about the failure to protect the deposit, then she believed the landlord would have made other deductions to the deposit. She believed it was only her knowledge that there had been a failure to lodge the deposit, which had protected the rest of her deposit.

7. The respondent accepted that the deposit had not been put in an approved scheme. She had provided detailed written submissions, which included evidence that she previously placed deposits into an approved scheme. She advised that the failure to protect it had been an oversight on her part. The applicant had paid the deposit by three instalments, not at the same time and she thought this had led to her oversight. She had believed that the deposit had been lodged, as that was her usual practice, but in fact it was not.

8. She said that the fact that the deposit was not lodged was also to her detriment, as it meant that she was not able to avail herself of the independent adjudication process in relation to seeking deductions from the deposit.

9. It was put to her that her e-mail of 24 July 2026 appeared to show that she was intending to make deductions from the deposit even though she was aware that the deposit had not been paid into an approved scheme. She advised that she changed her mind about making deductions because of the inconvenience that not having put the deposit into a protected scheme had caused the parties. She said she believed the deposit had been protected.

10. She advised that she has rented out properties for 15 years and she rents out two properties. The landlord submitted that the tenant had not informed the landlord about the lock failing and the locksmith being required. In the end, she had reimbursed the tenant for the locksmith. She submitted that this was an isolated issue: this one failure to pay the deposit into a deposit scheme. She

fully accepted her failure. She asked the tribunal to consider all matters fairly and proportionately.

Findings in Fact

11. The Tribunal made the following findings in fact:-

12. The Respondent, Fidelia Odili was the landlord,

13. The Applicant, Anne Remold, was the tenant.

14. The parties entered into a tenancy agreement.

15. The tenancy had commenced on 29 June 2025.

16. The tenancy ended on 9 July 2026.

17. The application was made on 27 July 2026.

18. The Applicant had paid the Respondent a tenancy deposit and first month's rent in three instalments on 16 June, June, 29 June and 4 July, all 2026.

19. The deposit was for £1417.00.

20. The deposit was not placed in an approved scheme throughout the tenancy.

21. The application had been submitted to the tribunal within 3 months of the tenancy ending.

22. The tenancy deposit paid by the applicant had not been lodged with an approved tenancy deposit scheme within 30 working days of the tenancy commencing.

23. In an email of 24 July 2026, the respondent wrote to the applicant advising that she had now completed the final inspection of the property and compared its condition against the original inventory. During the inspection, she identified damage to the wardrobe together with staining to a number of bathing items. She was obtaining final repair and replacement costs. Regarding the deposit protection she confirmed the tenancy deposit was not currently held with an approved scheme. This was an oversight on her part, which she only recently became aware of. That it had never been her intention to retain the deposit outside an approved scheme. That did not affect the fact that the respondent was completing her assessment of the tenancy and once the outstanding repair and replacement costs had been confirmed the respondent intended to write to the applicant setting out her decision regarding the deposit together with any proposed deductions and the reasons for them. There was also earlier correspondence which appeared to suggest that the respondent intended to retain at least 1/2 of the locksmith costs.

24. On 26 July 2026 the applicant emailed the respondent that she intended to make an application to the first tier tribunal regarding tenancy deposit compensation.

25. The tenancy deposit, less a sum for unpaid rent, was returned to the tenant on 27 July 2026.

Discussion

26. The Tenancy Deposit Schemes (Scotland) Regulations 2011 set out a number of legal requirements in relation to the holding of deposits, and relevant to this case are the following regulations:-

Duties in relation to tenancy deposits

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.

Sanctions

9.— (1) A tenant who has paid a tenancy deposit may apply to the [First-tier Tribunal] 1 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 […]2 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] 1 — (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] 1 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.

27. The tenancy deposit regulations apply in this case. The landlord received a deposit in connection with a relevant tenancy. They had a duty to therefore place it into an approved scheme. They did not do so in accordance with the regulations. Given this breach, the tribunal is required to order the landlord to pay the tenant an amount not exceeding three times the tenancy deposit.

28. When deciding on the amount of the award, the tribunal has to take into account that the sanction is to mark the gravity of the offence; it is not paid as compensation; the assessment should be fair and proportionate; and there should be an assessment of mitigating and aggravating factors.

29. I consider that this breach is at mid to lower end of the scale. In assessing the relevant factors:

30. Mitigating factors are: The landlord admitted the breach. The deposit has been paid back without any deductions being made from it except for outstanding rent, which was accepted by the tenant. The deposit was repaid relatively shortly after the tenancy came to an end, namely approximately 3 weeks. The landlord provided evidence that she had previously lodged tenancy deposits in approved schemes. She understood her duty to do so, and it appears that she has a history of discharging that duty properly.

31. In terms of aggravating matters in this case. The tenancy deposit was not protected for the duration of the tenancy, just over a year. The applicant had been emailing the landlord regarding the tenancy deposit, and the landlord had taken time to admit to her that the deposit had not been protected in a scheme. The landlord suggested that this was an oversight on her part caused by the tenant paying the deposit in three separate payments. The tribunal does not find that this is a reasonable explanation as to why the deposit was not paid into a scheme for the whole of the tenancy. The three payments were for fairly significant amounts; they were paid fairly close together, the third just shortly after the tenancy commenced. They were for rent and the tenancy deposit. It is difficult to conclude that if the landlord only rented out two properties, she would not have noticed a balance of £1417 in her bank account or realised that the deposit was not protected. She was an experienced landlord and knew she had to secure the deposit in an approved scheme. The tenancy agreement set out that the tenancy deposit would be put into an approved scheme. At the end of the tenancy, the landlord had been carrying out an end-of-tenancy inspection to assess whether there were deductions which should be made to the deposit. It appeared that she intended to make those deductions from the deposit even though there was no one independent to adjudicate on the issue. Had she done so, this would have meant the applicant had no recourse to an independent adjudication scheme to consider whether those deductions were reasonable or not. She rents out two properties. She has been a landlord for around 15 years

and so was experienced. She understood her duties to place the deposit into an approved scheme.

32. The regulations require me to make an order in the event of breach; for all of the reasons I have set out above, I consider that the failure to lodge the deposit was either at worst intentional or at best careless and demonstrated a lack of professional oversight for other people's money, which she had a duty to protect. I think that there may have been some merit in the applicant's submission that the respondent would have made deductions to the deposit if she had not made it clear to the landlord that she was aware of the landlord's failure to secure her deposit and that she intended to go to the tribunal. That said, the landlord has previously secured deposits in approved schemes, and further, she ultimately did not make any deductions other than agreed rent, and she repaid it to the tenant quickly. The matter has caused some detriment to the applicant as she had to press the landlord to get information about the tenancy deposit. I consider that this is a moderate breach; however, there is mitigation as set out above this reduces the seriousness of it, including the repayment of the deposit shortly after the end of the tenancy. I consider that an award of £500.00 would be fair and proportionate in all the circumstances.

Decision

33. The Tribunal determined that there had been a breach of the Tenancy Deposit Scheme (Scotland) Regulations 2011, and it would make an order for payment of £500.00 in favour of the Applicant.

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.

Melanie Barbour

Legal Member/Chair

13 November 2026

Date