Housing and Property Chamber
First-tier Tribunal for Scotland

Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulations 9 and 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the Regulations") and Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules").

Parties:

RITA MUNANIE MUETI, 6,5 WESTERHAILES PARK, EDINBURGH, EH14 3AE ("the Applicant")

Mr Patryk SZPILCZYNSKI, 6 SOUTHHOUSE CROSSWAY, Edinburgh ("the Respondent")

Tribunal Members:

Karen Moore (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal"), having found that the Respondent did not comply with Regulation 3 of the Regulations, determined that an Order for Payment in the sum of FIVE HUNDRED and FIFTY POUNDS (£550.00) Sterling be granted.

Background

1. By application received on 10 April 2026, ("the Application"), the Applicant applied to the Tribunal for an Order in terms of Regulation 10 of Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the Regulations").

2. The Application comprised a copy of a tenancy agreement between the Parties with an entry date of 8 November 2025, evidence of payment of a

deposit of £550.00 paid by the Applicant, evidence that the deposit had not been lodged.

3. The Application was accepted by the Tribunal and a Case Management Discussion (the "CMD") was held for 23 July 2026 by telephone conference. Both Parties attended. At the CMD, the Respondent agreed that he had not lodged the deposit but had since done so. The Applicant disputed this as she could not trace it on the approved scheme website.

4. The CMD was adjourned to a later date for the proof of the lodging of the deposit.

Further CMD

5. The CMD took place on 22 October 2026 at 14.00 by telephone conference. The Applicant, Miss Muetti, and the Respondent, Mr. Szpilczynski, both took part.

6. Prior to the CMD, Mr. Szpilczynski lodged a certificate from Safe Deposit Scotland showing that £550.00 had been deposited by him on 3 June 2026. The certificate named the tenant as Rita Munanie and stated that the deposit had been paid on 8 November 2025.

7. The Tribunal asked if Mr. Szpilczynski accepted a breach of the Regulations which he did. The Tribunal explained that, in terms of the Regulations, the Tribunal was bound to make an Order. The Tribunal explained that Order is a penalty on the landlord.

8. Ms. Muetti stated that she wished compensation. She said that she did not believe that Mr. Szpilczynski was not aware of the deposit regulations or had forgotten to lodge the deposit as he had said at the earlier CMD.

9. Mr. Szpilczynski stated that he had lodged the deposit before he was served with the case papers on 17 June 2026 when the deposit regulations were

brought to his notice by another tenant. He maintained that he was a good landlord and that the deposit was lodged only a few months late.

Findings in Fact

10. From the Application and the CMD, the Tribunal made the following findings in fact: -
    i) There is a tenancy of the Property between the Parties;
    ii) A tenancy deposit of £550.00 was paid by the Applicant to the Respondent on 8 November 2025;
    iii) The tenancy deposit was not lodged with an approved scheme within the statutory period and no information on the deposit was provided to the Applicant by the Respondentf;

The relevant law

11. Rule 3 of the Regulations provides : *"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."* . Rule 10 provides: *" If satisfied that the landlord did not comply with any duty in regulation 3 the tribunal (a)must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit."*

Decision

12. Having made the Findings in Fact, the Tribunal had regard to Regulation 10(a) of the Regulations which states that, if satisfied that the landlord did not comply with any duty in Regulation 3, the Tribunal must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit.

13. In this case, the Respondent, Mr. Szpilczynski , accepted that the Regulations had been breached. Therefore, The Tribunal was therefore obliged to make an Order.

14. The Tribunal is then required to consider the amount of the Order. The amount of any award is the subject of judicial discretion after careful consideration of the circumstances of the case as set out in the decision of the Inner House of the Court of Session in Tenzin v Russell 2015 Hous. LR.

15. In considering the appropriate level of payment order to be made in the circumstances, the Tribunal considered the need to proceed in a manner which is fair, proportionate and just, having regard to the seriousness of the breach (Sheriff Welsh in Jenson v Fappiano 2015 GWD 4-89).

16. The Tribunal had regard to the view expressed by Sheriff Ross in Rollet v Mackie ([2019] UT 45) that the level of penalty should reflect the level of culpability, stating *"The admission of failure tends to lessen fault: a denial would increase culpability".* As stated above*,* Mr. Szpilczynski accepted that the Regulations had been breached and did so at the outset. The Tribunal was satisfied that he lodged the deposit as soon as he became aware of his statutory duty to do so. Regardless of those facts, the Applicant, Miss Muetti, has a legal right to make an application to the Tribunal under the Regulations.

17. The purpose of the Regulations and the requirement to pay a tenancy deposit into an approved scheme is intended to protect the deposit and offers protection for both parties in the event of any dispute at the end of the tenancy. Regulation 10 is in place to penalise landlord who fail to ensure that their tenant's deposit is protected and is not subject to misuse. In this case, the tenancy deposit paid by Miss Muetti should have been protected but it was not.

18. Taking all of the above considerations in respect of the Regulations into account, the Tribunal considered that an award around the low-level of the penalty scale would be appropriate. It, therefore, determined that an order for £550.00, representing the amount equal to the tenancy deposit paid, would be fair, proportionate and just, having regard to the seriousness of the breach

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.



Legal Member/Chair **22 October 2026**

Date