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 ("The Regulations")**

**Chamber Ref: FTS/HPC/PR/25/4775 and FTS/HPC/PR/25/4779**

**Re: Property at Flat 7, St. Peter Square, 22-24 St. Peter Street, Aberdeen, AB24 3HU ("the Property")**

**Parties:**

**Miss Alana Todd, Flat 7, St. Peter Square, 22-24 St. Peter Street, Aberdeen, AB24 3HU ("the First Applicant")**

**Mr Stuart Watson, Flat 7, St. Peter Square, 22-24 St. Peter Street, Aberdeen, AB24 3HU ("the Second Applicant")**

**The Housing Fund for Scotland, 2 Crescent Office Park, Clarks Way, Bath, BA2 2AF ("the Respondent")**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Ahsan Khan (Ordinary Member)**

**[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 First Applicant the sum of £25.00 and the Second Applicant the sum of £25.00.**

**Background**

[2] In Application with reference FTS/HPC/PR/25/4775, the First 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. In

Application with reference FTS/HPC/PR/25/4779, the Second Applicant seeks likewise in respect of the same tenancy agreement. Both Applicants were joint tenants.

**Prior Procedure**

[3] The Application called for a Case Management Discussion (CMD) previously. It was accepted that the Respondent had not registered the Applicants' deposit into an approved scheme until "*4 or 5*" days later than required by the Regulations.

[4] The facts were not complicated but the Tribunal considered that only a full Tribunal should decide what, if any, award ought to be made under the Regulations after hearing evidence and submissions.

[5] The Tribunal decided to adjourn the Application to an evidential Hearing by conference call for evidence to be heard and a final decision to be made.

**The Hearing**

[6] The Application thereafter called for a Hearing by conference call at 10 am on 27 October 2026. Both Applicants were personally present. The Respondent was represented by Ms Jenkins and Ms Simms of Touchstone who are the Respondent's representatives. Neither party had any preliminary matters to raise. The Tribunal established from the outset that it was now agreed that the sum of £**1,**067.30 paid to the Respondent as a relevant tenancy deposit was paid into an approved scheme 4 days beyond the required timescales set out in the Regulations.

[7] The Tribunal heard from both parties. The Applicant's position was clear and required little further explanation. The Respondent had submitted representations setting out their position and these were spoken to and discussed. Ms Jenkins explained that the error had been caused by a "*one off*" software glitch whereby the intended payment to the scheme had been instructed but was not actioned. That error was noted later and rectified. It was explained that this was an isolated issue. The Applicants pointed out that being a landlord was a great responsibility and that the Tribunal should consider that this was another example of the Respondent's negligence. It appeared to the Tribunal that there were perhaps broader issues between the parties which were not relevant to the Tribunal's decision-making process in these Applications. The Applicants only became aware of the breach after the deposit had ultimately been registered. The Applicants were aggrieved that the Respondent did not expressly inform them that the deposit was registered late.

[8] 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 14 August 2025.*

2) *At the commencement of the tenancy, the Applicants paid the Respondent a tenancy deposit in the sum of £1067.30.*

3) *The Respondent paid this deposit into an approved scheme 4 days beyond the deadline imposed by the Regulations.*

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[9] 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.

[10] 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 £3,201.90. 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."*

[11] The Tribunal considered that the breach was almost technical and at the lowest end of the scale. There was almost no prejudice at all to the Applicants and they only became aware that there had been a minor breach after they had been informed that the deposit was already registered. Balancing all of the circumstances of the case, and applying the guidance in *Ahmed*, the Tribunal determined that a sanction of £25.00 for each Applicant was fair, proportionate and just.

**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**

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| _____ | **27 October 2026** |
| **Legal Member/Chair** | **Date** |