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 regulations 9 and 10 of The Tenancy Deposit Schemes (Scotland) Regulations 2011, as amended ("2011 Regulations")

Chamber Ref: **FTS/HPC/PR/26/1507**

Property: **73 Blackchapel Close, Edinburgh, EH15 3SL ("the Property")**

Parties:

Mr Karol Pawlik, 73 Blackchapel Close, Edinburgh, EH15 3SL ("the Applicant")

Mr Cuma Cirkin, 5 Edgelaw Rigg, Edinburgh, EH16 6FS ("the Respondent")

Tribunal Members:

Pamela Woodman (Legal Member) and Helen Barclay (Ordinary Member)

Present:
The hearing took place at 10am on Thursday 12 November 2026 by teleconference call (**"the Hearing"**). Both the Applicant and the Respondent were present. The clerk to the Tribunal was Arrowyn Williams.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment of £180 be made against the Respondent in favour of the Applicant.

BACKGROUND

1. An application was made to the Tribunal under regulation 9 of the 2011 Regulations and in accordance with the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (**"HPC Rules"**) which are set out in the schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. More specifically, the application was made in terms of rule 103 *(Application for order for payment where landlord has not paid the deposit into an approved scheme)* of the HPC Rules.

2. The applicant was seeking an order for three times the deposit amount.

3. A case management discussion (**"CMD"**) was held on 7 July 2026 at which both the Applicant and the Respondent were present. The Tribunal had the benefit of the note of the CMD produced by the chair of the CMD.

4. Regulation 9(1) of the 2011 Regulations is in the following terms:

> "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."

5. Regulation 3(1) of the 2011 Regulations is in the following terms:

> "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."

6. Regulation 9(2) of the 2011 Regulations is in the following terms:

> "An application under paragraph (1) must be made no later than 3 months after the tenancy has ended."

7. Regulation 10 of the 2011 Regulations is in the following terms:

> "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."

8. Regulation 42 of the 2011 Regulations is in the following terms:

> "(1) The landlord must provide the tenant with the information in paragraph (2) within the timescales specified in paragraph (3).
>
> (2) The information is—

(a) confirmation of the amount of the tenancy deposit paid by the tenant and the date on which it was received by the landlord;

(b) the date on which the tenancy deposit was paid to the scheme administrator;

(c) the address of the property to which the tenancy deposit relates;

(d) a statement that the landlord is, or has applied to be, entered on the register maintained by the local authority under section 82 (registers) of the 2004 Act;

(e) the name and contact details of the scheme administrator of the tenancy deposit scheme to which the tenancy deposit was paid; and

(f) the circumstances in which all or part of the tenancy deposit may be retained at the end of the tenancy, with reference to the terms of the tenancy agreement.

(3) The information in paragraph (2) must be provided—

(a) where the tenancy deposit is paid in compliance with regulation 3(1), within the timescale set out in that regulation; or

(b) in any other case, within 30 working days of payment of the deposit to the tenancy deposit scheme.

(4) Where the landlord and the tenant agree that the tenancy deposit is to be paid in instalments…"

9. This case related to a tenancy agreement between the Applicant and Justyne Browdowske-Hellmenn (as tenants) and the Respondent (as landlord) (**"Tenancy Agreement"**). The Applicant did not provide a copy of the Tenancy Agreement with his application. The Respondent provided certain pages of the Tenancy Agreement with his written submissions.

PROCEEDINGS

10. Given that the Respondent had not admitted any failure to comply with the landlord's duties in terms of regulation 3(1) of the 2011 Regulations, the Legal Member explained that it was for the Applicant to satisfy the Tribunal, on the balance of probabilities, that (a) the tenancy deposit was not lodged with an approved scheme within 30 working days of the start of the tenancy and (b) the Respondent had not provided the prescribed information to the Applicant and joint tenant within the same timescale.

11. The Legal Member explained that, if the Tribunal was satisfied that the Respondent had not met either or both of these duties, then an order would require to be granted and it would be a matter for the Tribunal to determine the amount of that order (in an amount of between £1 and £5,400, which was three times the amount of the tenancy deposit).

12. The Legal Member also explained that these proceedings were limited to matters related to the tenancy deposit and the Tribunal would not consider any other matters, including but not limited to those related to termination of the tenancy, return of the tenancy deposit and payment of rent. The Legal Member confirmed that the Tribunal could not provide either party with advice but that both parties might find it helpful to take legal advice and that they could consider contacting, for example, Citizens Advice Scotland or Shelter Scotland.

13. The Applicant confirmed that he had not received any e-mail, text message or letter (including by post) from The Letting Protection Service Scotland (**"LPS"**) and so had not received confirmation from LPS that the tenancy deposit had been lodged in an approved scheme nor the prescribed information about the tenancy deposit.

14. The Applicant noted that he had found out in spring 2026 that the tenancy deposit had been lodged with LPS but that LPS had refused to provide him with details of the tenancy deposit on the grounds of GDPR. However, he noted that LPS had confirmed that to him that the tenancy deposit had been lodged and so was secure.

15. As a result of LPS not providing him with any information, the Applicant confirmed that he did not have any evidence that the tenancy deposit had not been lodged with an approved scheme within 30 working days of the start of the tenancy, which was on 2 January 2025.

16. The Respondent confirmed that he had lodged the tenancy deposit of £1,800 with LPS within 30 working days and that the screenshot of a payment to "Computershare Inve" on 28 January 2025 was evidence of him having made the payment to LPS.

17. The Legal Member noted that, having checked the LPS website on the morning of the Hearing, it confirmed that Letting Protection Service Scotland is a trading name of Computershare Investor Services Plc.

18. The Legal Member also noted that, having input the Applicant's surname, the tenancy start date of January 2025, the postcode of the Property and the amount of the deposit (i.e. £1,800) into the LPS deposit checker (https://www.lettingprotectionscotland.com/is-my-deposit-protected), the following confirmation was provided: "A deposit matching your search is protected with The LPS Scotland."

19. The Respondent stated that he had seven rental properties (including the Property) and that LPS usually sent the details of the tenancy deposit having been lodged to a tenant and that LPS would also usually send a letter to a tenant with their digital ID number.

20. The Respondent confirmed that he had received an e-mail confirmation from LPS regarding the lodging of the tenancy deposit and he had understood that an e-mail would have been sent to the Applicant at the same time.

21. The Applicant confirmed that he had handwritten his e-mail address in the Tenancy Agreement and conceded that maybe his handwriting was “not well”. He confirmed that his e-mail address started with the letters “mas” rather than “mes”.

22. Both parties confirmed that there had been no e-mail communication between them before the Tenancy Agreement was signed. The Respondent confirmed that he did not have the Applicant’s e-mail address until the Applicant wrote it in the Tenancy Agreement.

23. After having retired and reached a decision on breach (or not) of the landlord’s duties in regulation 3(1) of the 2011 Regulations, the Tribunal informed the parties that it had concluded (on the balance of probabilities) that the Respondent had complied with regulation 3(1)(a) but that he had not complied with regulation 3(1)(b) of the 2011 Regulations.

24. Accordingly, both parties were asked to address the Tribunal on the quantum of an order for payment in light of the Respondent’s failure to comply with regulation 3(1)(b) and what they each considered would be the amount of a fair and proportionate sanction in the circumstances of this case.

25. The Applicant submitted that the appropriate amount should be in between £1 and £5,400, perhaps £3,500. In being asked about how he had been disadvantaged or suffered detriment, the Applicant said that, after 16 months, he had not received details that the tenancy deposit had been lodged in an approved scheme.

26. The Respondent submitted that no payment should be made and so the appropriate amount was zero because he had not done anything wrong. He submitted that the Applicant must have received a letter by post from LPS with his digital ID number.

27. The Respondent confirmed that he had only once before had a problem with a tenancy deposit and that was in 2017 when he had not lodged the tenancy deposit in an approved scheme.

28. The Tribunal noted that they were not bound by the submissions of either party on quantum and that it would exercise its discretion in that respect.

FINDINGS OF FACT

29. The application had been made during the course of the tenancy and so was made in time in terms of the timescale set out in the 2011 Regulations.

30. The pages of the Tenancy Agreement seen by the Tribunal stated that:

    a. there were two tenants;

    b. the tenancy commenced on 2 January 2025;

c. rent was payable at a rate of £1,800 per calendar month from the tenancy commencement date; and

d. a deposit of £1,800 was payable.

31. The e-mail address of the Applicant in the Tenancy Agreement was handwritten by the Applicant.

32. The Respondent did not have a note of the Applicant's e-mail address before the Tenancy Agreement was completed.

33. The Applicant's e-mail address started with the letters "mas".

34. The e-mail address for the Applicant given by the Respondent to LPS started with the letters "mes" (based on the LPS printout of the deposit details provided by the Respondent).

35. The Respondent had made a payment of £1,800 to Computershare on 28 January 2025.

36. The Letting Protection Service Scotland is a trading name of Computershare Investor Services plc.

REASONS FOR DECISION

37. Based on a tenancy commencement date of 2 January 2025, the tenancy deposit should have been lodged with a tenancy deposit scheme "within" 30 working days of 2 January 2025 and so on or before 13 March 2025.

38. The first question for the Tribunal was did the Respondent "pay the deposit to the scheme administrator of an approved scheme" within 30 working days.

39. The Tribunal was satisfied (on the balance of probabilities) that the tenancy deposit had been lodged with LPS on or before 13 March 2025 and so the Respondent had complied with his duty in terms of regulation 3(1)(a) of the 2011 Regulations.

40. The second question for the Tribunal was did the Respondent "provide the tenant with the information required under regulation 42" of the 2011 Regulations within 30 working days of the start date of the tenancy.

41. The Tribunal was not satisfied (on the balance of probabilities) that the Respondent had complied with his duty in terms of regulation 3(1)(b) of the 2011 Regulations.

42. However, the Tribunal accepted that this appeared to be an inadvertent failure to comply as a result of LPS not having the correct e-mail address for the Applicant.

43. The Tribunal understood that confirmation of the lodging of the tenancy deposit would typically be sent by the approved tenancy deposit scheme but, without the correct e-mail address, it could not do so (at least by e-mail).

44. That said, technically, the Respondent had failed to comply with his duty to provide the prescribed information about the lodging of the tenancy agreement to the Applicant. On that basis, the Tribunal was required to make an order in terms of regulation 10 of the 2011 Regulations of "an amount not exceeding three times the amount of the tenancy deposit" (so of between £1 and £5,400).

45. In determining what would be a "fair, proportionate and just sanction" in the circumstances of this particular case, the Tribunal was satisfied, on the balance of probabilities, that:

    a. This was not a case where the tenancy deposit had never been protected nor one where it had not been protected for a number of years.

    b. The Respondent had intended to and thought that he had complied with his duties in relation to the tenancy deposit. There had been no wilful attempt by the Respondent to avoid compliance with the 2011 Regulations.

    c. The seriousness of the failure to comply was very low and might reasonably be described as an inadvertent breach.

    d. The tenancy deposit had been protected in accordance with the 2011 Regulations and the tenancy was continuing as at the date of the Hearing – therefore, the Applicant had not been prejudiced or suffered any loss as a result of the failure to be provided with details of the lodging of the tenancy deposit within 30 working days of the start date of the tenancy.

    e. Given that the tenancy deposit was (and still was on the date of the Hearing) protected with LPS, the Tribunal was not satisfied that (having taken that step to comply) the Respondent would then have deliberately given an incorrect e-mail address for the Applicant to LPS. There would have been no benefit to the Respondent in doing so.

    f. Both the Legal Member and Ordinary Member had read the Applicant's handwritten e-mail address in the Tenancy Agreement as starting with "mes" rather than "mas". However, it was acknowledged that (with the benefit of having seen e-mails from the Applicant in the case papers), the correct e-mail address for the Applicant did start with "mas".

    g. Accordingly, it was understandable why the Respondent had provided an e-mail address for the Applicant to LPS which started with "mes" but that e-mail address was incorrect. The Tribunal accepted that the Respondent would have believed that he had submitted the correct e-mail address to LPS.

    h. The process on the LPS website (https://www.lettingprotectionscotland.com/documents/submitting-a-deposit-to-the-lps-scotland.pdf) stated that "Email confirmation for the successful deposit submission is sent to landlord and confirmation is also sent to tenant by email or post" and that "A unique repayment ID is issued

to both landlord and tenant which forms an integral part of the repayment process". Accordingly, it was reasonable for the Respondent to expect that LPS would send details of the tenancy deposit having been lodged to the Applicant and joint tenant.

i. However, the duty was on the landlord (in this case the Respondent) rather than LPS to provide the tenancy deposit details to the Applicant and the joint tenant. By not providing the prescribed information about the tenancy deposit to the Applicant and the joint tenant, or by not checking that they had received the information directly from LPS, the Respondent had not taken any reasonable step to check that the duty had been complied with.

DECISION

46. Taking all of that into account, the Tribunal decided that a fair, proportionate and just sanction in the circumstances of this particular case was for the Respondent to be ordered to pay the Applicant an amount of £180 (one hundred and eighty pounds sterling) as a result of the Respondent's failure to comply with his duty under regulation 3(1)(b) of the 2011 Regulations. This represented 10% of the tenancy deposit (and so was approximately 3.33% of the maximum amount which could be ordered to be paid under regulation 10 of the 2011 Regulations).

Right of Appeal

In terms of Section 46 of the Tribunals (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.

12 November 2026

Chair **Date**

Pamela Woodman