



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Regulation 9 of the Tenancy Deposit
Schemes (Scotland) Regulations 2011**

Chamber Ref: FTS/HPC/PR/18/1217

Re: Property at 9/4 Caledonian Road, Edinburgh, EH11 2DA (“the Property”)

Parties:

**Mr Declan Murray, Mr Juan Bautista Navas, 9/4 Caledonian Road, Edinburgh,
EH11 2DA (“the Applicants”)**

Mr Afzal Boksh, 5 Clerk Street, Edinburgh, EH8 9JH (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the landlord had failed to pay a deposit into an
approved scheme within the requisite period and imposed a financial penalty
of £940.00**

Background

**By application dated 15 May 2018 the applicant applied to the first-tier tribunal
for Scotland. The application was accompanied by a variety of documents
which included a copy of the lease, bank statement showing payment of the
deposit to the letting agents and other emails requesting confirmation that the
deposit had been paid in to an approved scheme.**

The Case Management Discussion

**The applicant Mr Murray was present as well as Mr Akinosho and MsSafwat
from the letting agency instructed by the landlord.**

**It was accepted by the landlord’s agents that the tenancy commenced on
07/01/2018. The deposit was paid on 16/02/2018 of £970.00 (£30.00 was
subsequently refunded as an overpayment) leaving a deposit of £940.00.**

A batch of money was sent by the letting agent on 26/04/2018 of £10000.00 but the sums were not allocated to the applicants tenancy. It was only on 23/5/2018 that confirmation of the tenancy deposit was made.

Findings in Fact

1 The tenancy between the parties was constituted by the tenancy agreement dated 08/01/2018.

2 The deposit of £940.00 was paid on 16/02/2018.

3 The deposit was placed in a tenancy deposit protection on 23/05/2018 outwith the required period of 30 working days.

Reasons for Decision

The letting agents were aware of the requirement to place the deposit into an approved scheme but failed to do so timeously.

The deposit is in a scheme and has been from 23/05/2018. The tenants remain in the tenancy.

This was a breach of the rules but at the lower end. Accordingly an order was made for payment of the amount of the deposit namely £940,00

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.

Mark Thorley

Legal Member/Chair

Date

14 August 2018