

**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 Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and The Tenancy Deposit Schemes (Scotland) Regulations 2011.**

**Chamber Ref: FTS/HPC/PR/19/2036**

**Re: Property at 27 Anderson Crescent, Prestwick, KA9 1EJ (“the Property”)**

**Parties:**

**Miss Amanda Kinney, 27 Anderson Crescent, Prestwick, KA9 1EJ (“the Applicant”)**

**Mr Ryan Rodger, 20 Corton Shaw, Ayr, Ayrshire (“the Respondent”)**

**Tribunal Member:**

**Martin McAllister (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent had not complied with the requirements of The Tenancy Deposit Schemes (Scotland) Regulations 2011 (the 2011 Regulations).**

**Background**

**This is an application by the Applicant in respect of the 2011 Regulations. It states that the Respondent had not complied with Regulation 3 of the 2011 Regulations and had not placed the £450 deposit with an approved scheme. The application was dated 26<sup>th</sup> June 2019 and, on 17<sup>th</sup> July 2019, a legal member, acting under delegated powers remitted the matter for determination.**

**Preliminary Matters**

**The Applicant and Respondent were present.  
The purpose of a case management discussion was explained to the parties.**

## **Facts agreed between the parties**

The parties were agreed on the following: The tenancy commenced on 4<sup>th</sup> August 2016, the deposit paid by the tenant was £450 and it was not placed with an approved deposit scheme within thirty working days. It was also agreed that the deposit had been placed with Safe Deposit Scotland on or around 1<sup>st</sup> April 2019.

## **Discussion**

The Respondent said that he had forgotten to place the deposit with an approved scheme when he had received it from the Applicant and only placed it on deposit when he had been reminded by the Applicant's partner. He said that the applicant was currently in arrears of rent to the extent of £1635 and that a Notice to Quit has been served.

The Applicant said that she needed funds to get a deposit for another private let and that she considered that the Respondent was seeking to remove her from the Property out of spite.

## **Need for a Hearing**

Parties indicated that they had no witnesses or other evidence to bring to any Hearing. The tribunal determined that the application could be determined at the case management discussion.

## **Findings in Fact**

1. The Applicant and Respondent are parties to a short assured tenancy in respect of the Property.
2. The tenancy commenced on 4<sup>th</sup> August 2016.
3. The Applicant paid a deposit of £450 at the commencement of the tenancy.
4. The deposit was placed with Safe Deposit Scotland on or around 1<sup>st</sup> April 2019.

## **Reasons**

The parties agreed that the deposit of £450 had not been placed timeously with an approved deposit scheme.

In terms of Regulation 10 of the 2011 Regulations the Tribunal must order the Respondent to pay the Applicant an amount not exceeding three times the amount of the tenancy deposit.

The Tribunal had no reason not to accept that the Respondent had forgotten to place the deposit with an approved deposit scheme but nevertheless it had been more than two and a half years before it had been protected. Whether or not the Applicant is in arrears of rent is of no relevance to the application before the Tribunal. The Tribunal noted that the deposit is now protected and considered it appropriate that a sum equivalent to one and a half times the deposit should be paid to the Applicant by the Respondent.

## **Decision**

**The Respondent is required to pay £675 to 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.**

**Martin J. McAllister  
Legal Member/Chair**

**30<sup>th</sup> August 2019**