



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Regulation 10 of the Tenancy Deposit  
Schemes (Scotland) Regulations 2011**

**Chamber Ref: FTS/HPC/PR/22/3627**

**Re: Property at Flat 3/1, 258 Stevenson Street, Bridgeton, Glasgow, G40 2RU  
("the Property")**

**Parties:**

**Mr Antony Harrison, 1/2, 19 St Mungo Avenue, Glasgow, G4 0PG ("the  
Applicant")**

**Mr Roland Spella, 5 Falconer Street, Port Glasgow, Inverclyde, PA14 5EJ ("the  
Respondent")**

**Tribunal Members:**

**Nairn Young (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that**

- Background

This is an application for an order for payment of a sanction for an alleged failure of the Respondent to comply with duties under regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ('the Regulations') in relation to a deposit paid by the Applicant. It called for a case management discussion ('CMD') at 2pm on 18 January 2023, by teleconference. The Applicant called in to the conference in person. The Respondent did not call in and was not represented on the call. The commencement of the CMD was delayed by 10 minutes to allow for any technical issue that he may have been experiencing, but there remained no contact from him.

The Respondent's representative had submitted written representations in relation to the application by letter dated 16 December 2022, in which it was, among other things, accepted on his behalf that there had been a breach of the regulation. The Tribunal therefore considered that he was aware of the CMD, but had chosen not to attend. On that basis, it considered that it was fair to proceed in his absence, taking into account the position set forth in the written submissions on his behalf.

- Findings in Fact and in Fact and Law
  1. The Applicant entered into a private residential tenancy agreement with the Respondent in regard to the Property, with a start date of 5 January 2022.
  2. In terms of that agreement, a deposit of £585 was payable.
  3. The Applicant paid the deposit of £585 to the Respondent on 5 January 2022.
  4. The Respondent lodged the deposit in an approved scheme on 6 May 2022.
  5. The Respondent did not send a notification to the Applicant in terms of regulation 42 of the Regulations.
  6. The tenancy ended on 26 September 2022 and the deposit was returned with deductions, as agreed between the parties.
  7. This application was made on 13 October 2022.
  8. The Respondent's failure to lodge the deposit with an approved scheme within 30 working days of the start of the tenancy was due to an administrative oversight.
  9. The Respondent realised the oversight himself and immediately took action to rectify it, when he did so.

10. The Respondent did not approach the Applicant at any time to attempt to settle this application.

- Reasons for Decision

11. The Respondent admits having failed to comply with his duties under regulation 3. In terms of regulation 10, therefore, the Tribunal must make an order for payment of a sanction. The deposit was finally paid into an approved scheme and has now been returned. No order in terms of regulation 10(2)(b) would therefore be appropriate. Thus, the only question the Tribunal has left to determine is the level of sanction that is appropriate.

12. In that regard, the Tribunal notes that this is a serious breach of the Regulations. The duty to place the deposit in a scheme is the most important of the duties placed upon a landlord under the Regulations.

13. Nonetheless, the Tribunal notes that the Respondent's failure was due to an oversight, rather than a deliberate failure. It notes that the Respondent himself realised the failure and rectified it, within a matter of a few months: at least as far as paying the deposit into an approved scheme. This demonstrates some care to ensure compliance; albeit late and incomplete, in that the information required by regulation 42 was still not separately notified to the Applicant. In regard to that latter point, the Tribunal did not consider that the Respondent's submission that this information may be obtained from other places was of any relevance. The regulations impose the duty on the landlord to bring all of the relevant information regarding the deposit together and specifically notify the tenant of it. It is not up to third party organisations to do this and not up to the tenant to extract it from other documentation.

14. The Tribunal also noted that, while the Respondent had admitted his failure, he had not made any approach to the tenant to settle the matter, which may have avoided the need for a CMD.

15. Taking all of this into account, the Tribunal considered that a sanction around the middle of the scale was appropriate and determined one of one and a half times the deposit should be imposed.

- Decision

**Order made for payment by the Respondent to the Applicant of the sum of £877.50 (EIGHT HUNDRED AND SEVENTY-SEVEN POUNDS AND FIFTY PENCE STERLING).**

### **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.

18/01/2023

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**Legal Member/Chair**

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**Date**