



**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/21/3184**

**Re: Property at 35 Preston Road, Prestonpans, EH32 9HZ (“the Property”)**

**Parties:**

**Miss Rebecca Taylor, 34 Morrison Avenue, Tranent, EH33 2AR (“the Applicant”)**

**Mr Thomas Irving, 35 Preston Road, Prestonpans, EH32 9HZ (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member)**

**Decision**

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

- Background

This is an application for an order for payment as a sanction for an alleged breach of a landlord’s duties in terms of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (‘the Regulations’). It called for a case management discussion (‘CMD’) at 10am on 17 March 2022, by teleconference. The Applicant was represented on the call by Ms Anita Dickson. The Respondent was on the call in person.

- Findings in Fact

The relevant facts of the case were not in dispute.

1. The Applicant let the Property from the Respondent in terms of a private residential tenancy, which has now come to an end following the eviction of the Applicant.
2. In terms of the agreement, on 15 April 2019, a deposit of £850 was paid to the Respondent by the Applicant.
3. The Respondent forgot to pay the deposit into an assured scheme within 30 working days of the beginning of the tenancy.
4. The Respondent did not realise his failure until it was brought to his attention following the termination of the tenancy.
5. The Respondent does not let out any other property and does not intend to let the Property out again.

- Reasons for Decision

6. The Regulations require that an order for sanction be made by the Tribunal, where it finds that a breach of the landlord's duties under regulation 3 has occurred. Of the various duties set out in that regulation, the one to pay the deposit into an approved scheme within 30 days is the most important, so the failure in this case is serious one.
7. In this case, the deposit was not protected as it should have been for the entirety of the tenancy: a period of over two and a half years. That is a long period. The ending of the tenancy has been contentious and the failure to have the deposit held in a scheme has deprived the Applicant of the ability to

access the dispute resolution procedure that would otherwise be available in relation to return or retention of the deposit.

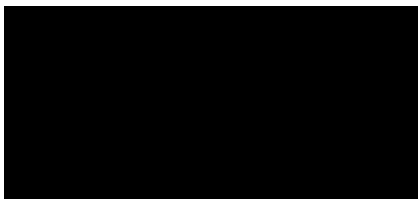
8. On the other hand, the Tribunal noted that the failure to pay the deposit in this case was a genuine error on the part of the Respondent, who admitted as much. He does not let out any other properties and is not intending to let this Property out again, so the effect of his failing on the wider community is limited.
9. Taking these factors into account, the Tribunal determined that a fair level of sanction in this case would be at the middle of the scale, or one and half times the deposit (£1,275).

- Decision

**Order made for payment by the Respondent to the Applicant of the sum of £1,275 (ONE THOUSAND, TWO HUNDRED AND SEVENTY-FIVE POUNDS 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.**



17<sup>th</sup> March 2022

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**Legal Member/Chair**

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**Date**

