



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the Regulations”) and Rules 103 and 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/PR/22/0026**

**Re: Property at 20 Port Henderson, Badachro, IV21 2AS (“the Property”)**

**Parties:**

**Ms Rufus Elliot, Porters Lodge, Armadale, Ardvassar, IV45 8RS (“the Applicant”)**

**Mr Duncan Glass-Watson, 3 Downs Crescent, Haverhill, Suffolk, CB9 9LQ (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that that an Order for payment in the sum of FIFTY POUNDS (£50.00) Sterling be granted.**

1. By application received between 6 and 18 January 2022 (“the Application”), the Applicant applied to the Tribunal for an Order in terms of Regulation 10 of the Regulations. The Application comprised a copy of a tenancy agreement between the Parties indicating that the tenancy deposit of £675.00 was required and would be lodged with an approved deposit scheme, copy confirmation from SafeDepositsScotland stating that the tenancy deposit was lodged on 25 November 2019 outwith the statutory 30 working day timescale and copy correspondence from the other two approved deposit scheme providers indicating that the deposit had not been lodged with either of them within the statutory 30 working day timescale. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 28 March 2022 at 11.30 which date was intimated to the Parties.

**Case Management Discussion**

2. The CMD took place on for 28 March 2022 at 11.30 by telephone. Both Parties took part. Neither Party was represented.

3. The Applicant confirmed the detail of the Application.
4. The Respondent accepted that he had lodged the deposit outwith the statutory 30 working day timescale and explained that he had notified the Applicant when the deposit had been lodged and with which approved it had been lodged. The Applicant agreed that notification had been given.

### **Findings in Fact**

5. From the Application and the CMD, the Tribunal made the following findings in fact: -
  - i) There had been a tenancy of the Property between the Parties from around October 2020 to November 2021;
  - ii) A tenancy deposit of £675.00 was paid on 7 October 2020
  - iii) The tenancy deposit was lodged with an approved scheme in terms of the Regulations on 25 November 2020, five days late in terms of the Regulations and
  - iv) The Respondent provided the Applicant with the information required by the Regulations.

### **Decision and Reasons for Decision**

6. The Tribunal had regard to the following Regulations: -

Regulation 3 which states:- *“(1) 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. (2) The landlord must ensure that any tenancy deposit paid in connection with a relevant tenancy is held by an approved scheme from the date it is first paid to a tenancy deposit scheme under paragraph (1)(a) until it is repaid in accordance with these Regulations following the end of the tenancy.”;*

Regulation 42 which states *“(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; and*

Regulation 10 which states *“If satisfied that the landlord did not comply with any duty in regulation 3 the Tribunal (a) must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit”*

7. From the Findings in Facts, the Tribunal determined that the Respondent had breached Regulations 3 (1)(a). Therefore, the Tribunal was bound to make an Order in terms of Regulation 10.
8. The Tribunal took the view that the breach of Regulation 3 had been minimal as the tenancy deposit was at risk for a short time. The Tribunal had regard to the fact the Respondent had notified the Applicant in terms of Regulation 42 and so the Applicant knew where the deposit was held and how and when to access it. Accordingly, the Tribunal awarded the Applicant compensation of £50.00 to reflect the extent and effect of the breach.
9. Having made that decision, the Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussion .....including making a decision” and so proceeded to make an order for payment in the sum of £50.00.

### **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.**

**Legal Member: Karen Moore**

**Date: 28/03/2022**