



**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/22/0867**

**Re: 1/1, 65 Woodside Terrace Lane, Glasgow G3 7XP ("Property")**

**Parties:**

**Richard Lister, 1/1, 65 Woodside Terrace Lane, Glasgow G3 7XP ("Applicant")**

**Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow G1  
1HL ("Respondent")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Decision :**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent should pay to the Applicant the sum of £80.**

**Background**

1. The Applicant made an application in Form G ("Application") dated 25 March 2022 under Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("Rules") stating that the Respondent had failed to timeously lodge a tenancy deposit in an appropriate scheme in breach of the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("2011 Regulations"). The documents produced to the Tribunal by the Applicant were a tenancy agreement dated 31 October 2021; an email from Safe Deposits Scotland to the Applicant dated 17 January 2022 regarding the Applicant's tenancy of the Property which stated that the deposit was protected from 14 January 2022 and email from the Respondent to the Applicant dated 7 February 2022 which stated that the failure to lodge the deposit timeously was and administrative error.
2. As part of the sift process it was noted that the landlord in terms of the tenancy agreement was Lowther Homes Limited. The Respondent in the application was stated to be Wheatley Housing Group with the Respondent stated to be

the respondent's representative. The Applicant was asked if he wished to amend the identity of the Respondent. He confirmed that he did.

3. A copy of the Application and notification of a Case Management Discussion ("CMD") fixed for 9 June 2022 at 2pm was given to the Respondent by Sheriff Officer on 28 April 2022.

### **Case Management Discussion ("CMD")**

4. A CMD took place on 9 June 2022 at 2pm by conference call. The Applicant was in attendance. There was no appearance by the Respondent.
5. The Applicant told the Tribunal that the tenancy commenced on 1 November 2021. He said that the deposit of £800 was paid prior to the commencement of the tenancy. The Tribunal noted that the deposit was not protected until 14 January 2021. The Respondent confirmed that was the case. He told the Tribunal that he received an email from Safe Deposits Scotland advising him that the deposit had been protected outwith the required timescale. He contacted the Respondent. They replied advising that the failure to lodge the deposit timeously was an administrative error.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement which commenced on 1 November 2021.
2. The Applicant paid to the Respondent a deposit of £800 prior to the commencement of the tenancy.
3. The deposit was protected by Safe Deposits Scotland from 14 January 2021.
4. The deposit was not paid to the administrator of an approved scheme in compliance with the timescales set out in Regulation 3 of the 2011 Regulations.
5. The deposit was paid into an approved scheme some 19 working days outwith the timescales stated in the 2011 Regulations.

### **Reasons for the Decision**

1. Regulation 10 of the 2011 Regulations states that if satisfied that the landlord did not comply with the duty in Regulation 3 to pay a deposit to the scheme administrator of an approved scheme within 30 working days of the beginning of the tenancy, the Tribunal must order the landlord to pay the tenant an amount

not exceeding three times the amount of the tenancy deposit. The Tribunal was satisfied that the Respondent did not lodge the deposit in accordance with the timescales required by the 2011 Regulations. When the festive break is taken into account, the deposit was lodged some 19 working days late.

2. The amount to be awarded is a matter for the discretion of the Tribunal having regard the factual matrix of the case before it. The Tribunal considered all of the circumstances presented to it and found it to be of significance that the deposit was unprotected for a short period and that the Respondent had lodged the deposit without being prompted to do so. The Tribunal was of the view that there were no aggravating factors present in this case.
3. The Tribunal found that the breach of the 2011 Regulations was at the lower end of the scale and determined that the sanction should be £80 in the particular facts and circumstances of this case.

### **Decision**

The Tribunal granted an Order for payment of £80 in terms of Regulation 10(a) of the 2011 Regulations.

### **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.**

**Joan Devine  
Legal Member**

**Date: 9 June 2022**