



**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/22/1043

Re: 55C Emerson Road, Glasgow G64 1QH (“Property”)

Parties:

Tanya Davidson, 56 Southview Terrace, Glasgow G64 1SA (“Applicant”)

**Dilraj Panesar, 65 Lumloch Drive, Bishopbriggs, Glasgow G64 1GT
 (“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 £50.

Background

1. The Applicant made an application in Form G ("Application") dated 7 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 11 November 2021. The tenancy commenced on 13 November 2021.
 - Email from Safe Deposits Scotland dated 28 February 2022 in respect of the Applicant's tenancy of the Property which stated that the deposit became protected on 11 January 2022.
 - Email from the Applicant dated 26 April 2022 in which she stated that the tenancy came to an end on 15 February 2022

2. A copy of the Application and notification of a Case Management Discussion ("CMD") fixed for 11 July 2022 at 2pm was given to the Respondent by Sheriff Officer on 24 May 2022.
3. The Respondent lodged written representations with the Tribunal by emails dated 8 June, 4 and 11 July 2022. By email dated 11 July 2022 the Applicant provided to the Tribunal a screenshot of a bank transaction showing payment of £999 to the Respondent on 11 November 2021.

Case Management Discussion ("CMD")

4. A CMD took place on 11 July 2022 at 2pm by conference call. The Respondent was in attendance. The Applicant was not in attendance.
5. The Tribunal noted that from the papers it appeared that a deposit of £650 was paid on 11 November 2021 but that the deposit was not protected until 11 January 2022 which was 9 working days late. It also appeared that the tenancy ended on 15 February 2022. The Respondent confirmed that those facts were correct.
6. The Tribunal noted the terms of sections 3, 9 and 10 of the 2011 Regulations and asked the Respondent if he was aware of the need to lodge the deposit with an approved scheme within 30 working days of commencement of the tenancy. He said that he was familiar with the 2011 Regulations.
7. The Tribunal asked why there had been a failure to comply with the 2011 Regulations. The Respondent said that from the time the tenant had moved into the Property there were difficulties. He said that he was approached by the landlord of a neighbouring property who said he was concerned about the behaviour of the tenant. The Respondent said that he approached the Applicant and her joint tenant and asked why they were causing problems. He said that he met with the Applicant and her joint tenant on 13 January 2022 and they said they would "quieten down". He said that with all that was going on he lost track of the need to lodge the deposit. The Respondent said that he was also distracted by caring for his elderly parents. The Respondent said that the deposit was returned to the Applicant and her joint tenant minus some deductions by Safe Deposits Scotland. He said that the Property is the only one that he lets and that he has been a private landlord for a couple of years.
8. The Tribunal noted that there was no dispute regarding the key facts which were the date of commencement and termination of the tenancy, that the deposit was received and that the deposit was not lodged timeously. The Tribunal noted that the deposit was lodged 9 working days late. The Tribunal

noted that there had been an admitted breach of the 2011 Regulations and that an order would be made in terms of section 10 of the 2011 Regulations.

9. The Tribunal expressed the view that it had sufficient information to proceed to make a decision without the need for a further Hearing. The Respondent said that he was content for the Tribunal to make a decision on the basis of the information presented.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 11 November 2021.
2. The tenancy commenced on 13 November 2021 and ended on or about 15 February 2022.
3. The Applicant paid to the Respondent a deposit of £650 on 11 November 2021.
4. The deposit was protected by Safe Deposits Scotland on 11 January 2022.
5. 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.
6. The deposit was paid into an approved scheme 9 working days outwith the timescales stated in the 2011 Regulations.
7. At the time of receipt of the deposit from the Applicant, the Respondent was aware of the need to lodge the deposit in an approved scheme in accordance with 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. The deposit was lodged 9 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, that the Respondent had lodged the deposit without being prompted to do so and that the Respondent had admitted that there had been a breach of the 2011 Regulations. The Tribunal noted the allegations made regarding the behaviour of the Applicant. It was unfortunate that the Applicant had not attended the CMD and therefore had not commented on the allegations. The Tribunal was however of the view that the behaviour of the Applicant as a tenant was not relevant to the obligation on the Respondent to lodge the deposit timeously in an approved scheme.

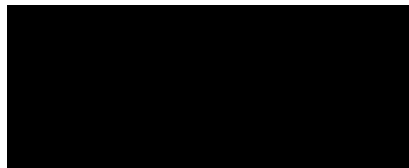
3. The Tribunal found that the breach of the 2011 Regulations was at the lower end of the scale and determined that the sanction should be £50 in the particular facts and circumstances of this case.

Decision

The Tribunal granted an Order for payment of £50 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: 11 July 2022