



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (the 2011 Regulations) and Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules)**

**Chamber Ref: FTS/HPC/PR/25/1456**

**Re: Property at 85 Barrland Street, Glasgow, G41 1RH (the Property)**

**Ms Claire Tjoe Fat, 25 Albert Drive, Glasgow, G41 2PE (the Applicant)**

**Mr Craig Chapman, 4/4, 80 Inverlair Avenue, Glasgow, G43 2BD (the Respondent)**

**Tribunal Member:**

**Ms. Susanne L. M. Tanner K.C., Legal Member and Chair**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal): (i) determined that the Respondent did not comply with the duty in Regulation 3 of the 2011 Regulations to pay the Applicant's deposit into an approved scheme within the stipulated time; (ii) it must order the Respondent to pay the Applicant an amount not exceeding three times the amount of the tenancy deposit in terms of Regulation 10 of the 2011 Regulations; and (iii) made an order requiring the Respondent to pay to the Applicant the sum of ONE HUNDRED AND FIFTY POUNDS (£150.00) Sterling**

**Statement of Reasons**

**Procedural background**

1. On 3 April 2025, the Applicant made an amended application to the tribunal against the Respondent in terms of Rule 103 of the 2017 Rules and Regulation 9 of the

2011 Regulations, namely an application for an order for payment where the landlord has failed to carry out duties in relation to a tenancy deposit (the Application).

2. The Applicant produced the following with the Application:
  - 2.1. Copy Private Residential Tenancy (PRT) tenancy agreement;
  - 2.2. Evidence of the date of the end of the tenancy;
  - 2.3. Email from Respondent to Applicant dated 3 January 2025;
  - 2.4. Screen shot of text messages between Lea Yin and Craig Chapman; and
  - 2.5. correspondence from Safe Deposits Scotland to her (undated).
3. The tribunal's administration checked the Scottish Landlord Register and found that the Respondent is the registered landlord.
4. The Application was considered by a legal member acting under the delegated powers of the President. On 14 April 2025, the Application was accepted for determination by the tribunal.
5. A Case Management Discussion (CMD) teleconference was fixed for 11 August 2025 at 1400h by teleconference. By letter of 26 June 2025, parties were notified of the date, time and details of the CMD, which both parties were required to attend. Parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application. Parties were advised that if they did not attend the CMD, this would not stop a decision or order from being made by the tribunal if the tribunal considered that it has sufficient information before it to do so and the procedure has been fair. The Respondent was invited to submit any written representations he wished by 17 July 2025. The Application paperwork and notification of the hearing was served on the Respondent by Sheriff Officers on 4 July 2025.
6. The Respondent did not lodge any defence, written representations or make any contact with the tribunal.

**Case Management Discussion (CMD) – 11 August 2025, 1400h – by teleconference**

7. The Applicant attended the CMD.
8. The Respondent did not attend or make any contact with the tribunal. The tribunal was satisfied that notification of the CMD was provided to the Respondent and it proceeded in his absence under rule 29 of the 2017 Rules, on the basis of the material before it and the oral submissions of the Applicant only.

9. The tribunal chair explained the nature and purpose of the CMD to the Applicant.

### **The Applicant's submissions**

10. The Applicant made oral submissions to supplement her written submissions and referred to documents which were lodged with the Application.

11. The Applicant lodged an additional document with the consent of the tribunal as proof of payment of the deposit of £1875.00 by her to the Respondent by bank transfer on 5 September 2024.

12. The Applicant stated that the tenancy started on 11 September 2024 and ended on 5 January 2025.

13. After the end of the tenancy, the deposit was returned in its entirety to the Applicant and her flatmate within the time periods provided in the deposit protection scheme.

14. The Applicant stated that Safe Deposits Scotland had sent her the letter which was lodged stating that the deposit was protected late. She said that it was lodged on 31 October 2024, when it should have been lodged within 30 working days of the beginning of the tenancy, which would have been 23 October 2024. It was therefore lodged six working days late.

15. The Applicant submitted that the late lodging of the deposit had put her and her flatmate in a precarious position for the days it was not lodged. When asked to expand on that she said that there had been other repair issues with the tenancy and poor communications from the Respondent throughout the tenancy and in relation to the end date and checkout procedures, all of which were unconnected with the late lodging of the deposit.

16. In the Application, the Applicant sought a payment order of three times the deposit. During the hearing, she invited the tribunal to make a payment order of two times the deposit.

17. Having heard the submissions by the Applicant, the tribunal considered the Application and relevant lodged evidence (including the evidence lodged at the CMD), oral submissions by the Applicant, and made its decision.

## Findings in Fact

18. The Respondent is the landlord of the Property.
19. The Applicant and a flatmate had a private residential tenancy of the Property which started on 11 September 2024 and ended on 5 January 2025.
20. The Applicant paid the tenancy deposit of £1875.00 to the Respondent on 5 September 2024.
21. The deposit was lodged with Safe Deposits Scotland on 31 October 2024.
22. The deposit was returned in its entirety to the Applicant and her flatmate after the end of the tenancy within the time periods provided in the deposit protection scheme.

## Discussion

23. There was no defence to the Application.
24. The tribunal was satisfied that the deposit was lodged in a statutory protection scheme on 31 October 2024, when it should have been lodged by 23 September 2024. The lateness and the possibility of applying to the tribunal were brought to the attention of the Application in correspondence from the deposit protection scheme.
25. The tribunal was satisfied on the balance of probabilities that there had been a failure to comply with Regulation 3 of the 2011 and that it must make an order for payment.
26. The maximum amount of any such order is three times the amount of the deposit.
27. The tribunal took account of the Applicant's oral submissions.
28. The tribunal had regard to Upper Tribunal authorities in similar cases, in particular *Rollett v Mackie* [2019] UT 45 and *Ahmed v Russell* [2023] UT 7.
29. In *Rollett*, above, Sheriff Ross said [at para 9] that:

*'Each case has to be examined on its own facts, upon which a discretionary decision requires to be made by the FtT. Assessment of what amounts to a "serious" breach will vary from case to case – it is the factual matrix, not the*

*description, which is relevant. Comparison with other cases is therefore of minimal assistance in the present case. The general principles of the law apply and these include that for a discretionary decision to be overturned it must be one which no reasonable tribunal could make.'*

30. And further [at para 13]:

*'In assessing the level of a penalty charge, the question is one of culpability and the level of penalty requires to reflect the level of culpability. Examining the FtT's discussion of the facts, the first two features (purpose of Regulations; deprivation of protection) are present in every such case. The question is one of degree and these two points cannot help on that question. The admission of failure tends to lessen fault; a denial would increase culpability. The diagnosis of cancer also tends to lessen culpability, as it affects intention. The finding that the breach was not intentional is therefore rational on the fact and tends to lessen culpability'.*

31. In *Ahmed*, above, Sheriff Cruickshank outlined the purpose and policy objectives of the Regulations [at para. 19] and referred to Sheriff Ross's '*helpful summary*' *Rollett*, above [at para. 29], stating:

*'Furthermore, in Rollett, Sheriff Ross considered that in assessing the level of sanction the question was one of culpability. When it came to the level of sanction the question was one of degree and provided examples of the factors which could lessen or increase the level of culpability'* [at para. 30].

32. In the present case, the tribunal took the approach of establishing the facts and then considering any aggravating and mitigating factors to determine culpability of the Respondent and decide on the appropriate level of sanction.

33. The tribunal considers that the fact that the deposit was only unprotected for six working days beyond the last date for lodging on time is a mitigating factor. There was no defence or mitigation put forward by the Respondent and there were no other relevant mitigating factors.

34. The tribunal does not consider that there are any aggravating factors other than the breach itself.

35. For the reasons outlined, the tribunal considered that the breach was at the lowest end of the scale of seriousness and decided to make an order for payment by the Respondent to the Applicant of the sum of £150.00. That sum was considered by the tribunal to be reasonable in all the circumstances.

36. The tribunal told the Applicant its decision and reasons orally at the CMD and explained that a written decision with statement of reasons would be produced and sent to both parties.

### **Permission to Appeal**

**37. 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.**

**11 August 2025**

**Ms. Susanne L. M. Tanner K.C.  
Legal Member/Chair**