



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an Application under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/25/0088

Alisha Arbab, Flat 2/2 (51/4) Causeyside Street, Paisley PA1 1YN (“the Applicant”)

Azhar Shah, 38 Berwick Drive, Glasgow G52 3EP (“the Respondent”)

Re: Property at Flat 2/2 (51/4) Causeyside Street, Paisley PA1 1YN (“the Property”)

Tribunal Members:

John McHugh (Chairman)

Mary Lyden (Ordinary (Housing) Member).

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent has imposed an unlawful increase of rent and that the Respondent should pay to the Applicant the sum of £630.

Background

The Applicant is the tenant and the Respondent is the landlord in terms of a private residential tenancy agreement relating to the Property dated 8 June 2020.

Hearing

A Hearing took place at the Glasgow Tribunals Centre on 3 December 2025. The Applicant was present and represented by Stella Cojocararu of the Citizens Advice Bureau. She was accompanied by her husband, Ali Haider and assisted by an interpreter. The Landlord was also present and represented by Sohail Shafaatulla, his managing agent.

This is one of two cases which were heard together which have overlapping subject matter. The present case relates to an alleged imposition of a rent increase without observing the statutory requirements. The second case (Ref FTS/HPC/CV/25/00899) relates to the alleged failure to pay a deposit into an approved scheme timeously.

The Respondent accepted at the hearing that he was in breach of his obligation under the 2011 Regulations to place the Applicant's deposit into an approved scheme within 30 working days.

It is the Applicant's position that the deposit of £350 was paid in cash to the Respondent on 8 June 2020 when the tenancy agreement began. The Respondent claims that no deposit was received until between May and December 2023 during which period the Applicant made payment of the deposit by instalments.

Regulation 3(1) of the 2010 Regulations applies so that a deposit should be paid into an approved scheme within 30 working days of its receipt. Regulation 3(2A) applies to deposits paid by instalments and provides that each instalment is to be paid into an approved scheme within 30 working days of its receipt by a landlord.

The Respondent explains that he had acted as a "Good Samaritan" in relation to the Applicant and her husband. They had recently arrived from Pakistan and did not have enough money to pay the deposit and so he agreed not to require it from them at the time on the basis that they would pay it when they could afford to. The Respondent's evidence was that he had regularly asked the Applicant and her husband for the deposit and they had eventually agreed to pay it in instalments. The first instalment was £30 paid at the same time as the monthly rent on 10 May 2023 ie a total of £380. The Applicant then paid an extra £100 on each of the months of July to December 2023 so that each monthly payment for those months was £450. His position is that he never requested any increase in rent at any point. Any extra payments were simply instalments towards the deposit.

The evidence of the Applicant and her husband was that the Respondent regularly pressed them for a rent increase. She had initially resisted and then paid £380 on 10 May 2023 which the Applicant expressed as being a figure providing around 5-7% in addition to the existing rent which she thought matched the then applicable rules regarding permissible rent increases. The Applicant and her husband spoke to regular harassment by the Respondent thereafter for an increase in the monthly rent to £450. They felt pressured to agree and increased their payments to that amount for the six months from July 2023. They say that the Respondent threatened eviction if increased rent payment was not made. The Applicant produced copies of messages from the end of December 2023 and early 2024 between her and a local Councillor in which she reported that the Respondent was threatening her with eviction and asking for the Councillor's help.

No written notice of the proposed increase was provided.

The Applicant then took advice and, as a result, considering the increase to be unlawful, she then reduced her monthly payments back to £350.

It is agreed by the parties that the amount of £350 was paid by the Respondent to Safe Deposits Scotland on 20 December 2023.

The tenancy ended on 14 May 2025 at the instance of the Respondent.

The full deposit amount was, by agreement, paid by the deposit scheme to the Respondent towards rent arrears.

Findings in fact

1. The Applicant is the tenant and the Respondent the landlord in respect of a private residential tenancy agreement of the Property dated 8 June 2020.
2. The Applicant occupied the Property from 8 June 2020.
3. The tenancy agreement specified that the rent was £350/month
4. Clause 11 of the tenancy agreement specified that a deposit of £350 was payable on or before the beginning of the tenancy.
5. The Applicant had no bank account at the beginning of the tenancy.
6. The Applicant paid the monthly rent for June, July and August 2020 by cash. No receipts were provided.
7. The Applicant paid to the Respondent the sum of £350 in cash as a deposit on 8 June 2020. No receipt was provided.
8. The Respondent paid the deposit of £350 to Safe Deposits Scotland on or around 20 December 2023.
9. The deposit was released by agreement to the Respondent by Safe Deposits Scotland at the end of the tenancy.
10. From around May 2023 the Respondent regularly asked the Applicant and her husband for the rent to increase.
11. The formalities of section 22 of the Private Housing (Scotland) Act 2016 relating to rent increases were not observed.
12. The Applicant paid an increased rent of £380 for one month on 10 May 2023.
13. The Applicant paid an increased rent of £450 for six months beginning on 10 July 2023.
14. From January 2024 the Applicant reverted to a monthly payment of £350.
15. The tenancy ended with the eviction of the tenant on 14 May 2025 by reason of the Respondent intending to sell the Property.

Reasons for Decision

There is a stark division between the evidence of the Applicant and her husband on the one part and the Respondent on the other. The Applicant's evidence is that a cash deposit of £350 was paid to the Respondent on 8 June 2020. No receipt was provided. Any increased payments thereafter are the result of demands by the Respondent for a rent increase.

The Respondent claims that there was no deposit paid in 2020 but that the increased payments in 2023 related to the payment of the deposit by instalments.

There is no dispute that the statutory process for implementing a rent increase (which is found in section 22 of the 2016 Act) was not followed – in the Respondent's submission, this is for the reason that no increase was ever, in fact, imposed.

We prefer the evidence of the Applicant and her husband to that of the Respondent. In doing so, we have given weight to the following factors:

- 1 The tenancy agreement refers to the deposit of £350 being payable at the beginning of the tenancy.
- 2 The Respondent was unlikely to record the requirement for the deposit in the tenancy agreement only then to immediately abandon requiring it.
- 3 If there had been any agreement to defer the payment of the deposit, that agreement would have been likely to have been recorded in writing in the tenancy agreement or otherwise. It was not recorded anywhere.
- 4 It is unlikely that a landlord in the position of the Respondent would have chosen to allow new tenants to move in without requiring payment of the deposit. Allowing new tenants to move in on the basis that the deposit would be paid later was an uncommercial and unusual arrangement and would deprive the Respondent of protection.
- 5 There is no documentary evidence of any discussion of the payment of the deposit during the course of the tenancy.
- 6 It seems inherently unlikely that the Respondent would have decided to pursue the issue of the deferred deposit around three years after the Applicant and her husband had moved in.
- 8 The extra sums paid along with the rent amount to £630. It is not apparent how those relate to making additional payments of £350 to amount to the deposit. Some payments may have been to address rent arrears but the end result was a positive balance of £80. This does not tally with the idea that the extra payments were being made as part of an agreement to pay the deposit.

We find that the deposit was received by the Respondent on 8 June 2020. We find that the Respondent demanded increased rent during 2023 under threat of termination of the tenancy agreement. We find that the Respondent failed to follow the statutory process under section 22 of the 2016 Act in relation to the demand for a rent increase. The purported increase was therefore unlawful and ineffective. The additional payments made during the period May to December 2023 amounting to £630 were made in response to, and as a direct result of, the unlawful and ineffective purported increase. The Applicant is therefore entitled to receive repayment of the sums paid in response to the unlawful demand.

Decision

The Respondent has imposed an unlawful and ineffective rent increase upon the Applicant as a result of which the Applicant has made payments of rent amounting to £630 which are not properly due. An Order will be made for repayment of the amount of £630.

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.



John McHugh, Legal Member

Date 7 December 2025