



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/25/3761

Re: Property at 3/2, 493 Victoria Road, Glasgow, G42 8RL (“the Property”)

Parties:

Mr Michael White, 3/2, 493 Victoria Road, Glasgow, G42 8RL (“the Applicant”)

Network Rail Infrastructure Limited, Waterloo General Office, London, SE1 8SW (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an order for payment of a sanction for an alleged failure on the part of the Respondent to meet its duties under regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (‘the Regulations’), as the Applicant’s landlord in receipt of his tenancy deposit. It called for a case management discussion at 10am on 9 March 2026, by teleconference. The Applicant was on the call in-person. The Respondent was represented on the call by Mr Brannigan of CMS Cameron McKenna Nabarro Olswang LLP, solicitors.

- Findings in Fact

The relevant facts in this case are not in dispute, as follows:

1. The Applicant paid a deposit of £1,000 to the Respondent in terms of an assured tenancy agreement concerning the Property, on or around November 2013.
2. The Respondent did not pay the deposit into an approved scheme and did not comply with any of the other duties incumbent on it under regulation 3 of the Regulations.
3. The Respondent is a large organisation which primarily holds commercial assets, although does have other residential properties.
4. The Respondent was unaware of its duties under regulation 3 and had not taken advice on the matter, until this application was raised.
5. The Respondent paid the deposit into an approved scheme on 5 March 2026, furnishing the Applicant with the prescribed information on the same day.
6. Until that point, the Respondent had held the deposit in a separate deposit account.

- Reasons for Decision

7. The Respondent admits a complete failure to carry out the steps required of it under regulation 3. It has now, very belatedly, corrected that. The remaining question for the Tribunal was therefore what a suitable level of sanction would be.
8. The Tribunal was referred to the cases of *Jenson v Fappiano* 2015 SCEDIN 6, and *Bavaird v Simpson* 2024 SLT (Tr) 43. Although based on rather different sets of factual circumstances, the former of these helpfully confirms

the nature of the exercise the Tribunal is to carry out. Put short, one may say this is to exercise its discretion rationally, proportionately and fairly.

Meanwhile, the *Bavaird* case establishes some specific factors that should be taken into account by it. Again the factual background is rather different in that case, but these include an assessment of the real risk to the deposit in not being protected, and the actual impact on the tenant in terms of loss or inconvenience.

9. The Tribunal considers that a failing of the sort seen in this case is a serious matter and noted that the Applicant's deposit went unprotected for around 12 years as a result. It is concerning that an organisation of this size and with the resources at its disposal that it has should plead ignorance of the legislative requirements. It is certainly the case that a sanction against such an organisation will usually be heavier than might be made against a small-scale, 'amateur' landlord (such as the respondents in the two cases cited). This is because the scale of the failing is more concerning where many properties may be involved; and because the impact of a sanction as both a punishment and deterrent will be smaller against an organisation with a larger turnover. These points suggested to the Tribunal that a sanction at around the mid- to high-level of the scale was appropriate.
10. In mitigation, the Tribunal noted that there had not been any practical prejudice to the Applicant, who remains in the Property: the deposit now having been paid into an approved scheme. The real risk to the deposit was low, given the manner in which it was held; although, it must be said that the task of recovering it from a large organisation, such as the Respondent, might have been a rather more daunting one for the Applicant than would have been the case with a landlord that was a private individual, had that actually been required .
11. Taking all these points into account, the Tribunal considered that a sanction of one-and-a-half times the deposit (i.e. £1,500) was fair.

- Decision

Order made for payment by the Respondent to the Applicant of the sum of ONE THOUSAND, FIVE HUNDRED POUNDS STERLING (£1,500).

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.

Nairn Young

Legal Member/Chair

9th March 2026
Date