



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section the Housing (Scotland) Act 2006 section 121 and Regulation 9 the Tenancy Deposit Schemes (Scotland) Regulations 2011

Chamber Ref: FTS/HPC/PR/25/4852

Re: Property at 9 BELVEDERE PLACE, BATHGATE, EH48 4BP (“the Property”)

Parties:

Ms VITA VIDZUPA, 9 BELVEDERE PLACE, BATHGATE, EH48 4BP (“the Applicant”)

MS MONIKA KAMAK, 7 BLAIRHILL CRESCENT, LIVINGSTON, EH54 7GT (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Landlord is in breach of her obligations in terms of Regulation 3 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“Regulation 3”). The Respondent shall make payment to the Applicant in the sum of £600 (SIX HUNDRED POUNDS) which is a penalty of one and half times the deposit.

Background

1. The Tribunal received an application from the Applicant in terms of Rule 103 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017. The application was dated 11th April 2025.
2. On 24th February 2026, all parties were written to with the date for the Case Management Discussion (“CMD”) of 14th April 2026 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 17th March 2026.

3. On 26th February 2026, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 26th February 2026.
4. On 17th March 2026, the Respondent's solicitor emailed the Housing and Property Chamber with a submission. In that submission it was admitted that there had been a breach of the Regulations but that there were mitigating factors to be considered.

The Case Management Discussion

5. A CMD was held on 14th April 2026 at 2pm. The Applicant was present and represented herself. The Respondent was not present but was represented by Ms Rosaleen Doyle, Senior Solicitor, McEwan Fraser Legal, Solicitors and Estate Agents.
6. The Tribunal said that from the papers the position was that the Applicant was a tenant of the Respondent. She had given a deposit of £400 at the start of the tenancy on 4th June 2021. This was not lodged into an appropriate deposit scheme, as required by the Regulations, until 1st January 2025. Both parties confirmed that to be the case. Ms Doyle said that it was not disputed that a breach had occurred.
7. The Applicant said that the deposit had not been lodged until such time as it had been raised with the Respondent. It was approximately 43 months before it was lodged. She is still living in the Property but has received a Notice to Quit. She considers that a three times penalty to be appropriate given the time that the deposit was not secured in an approved scheme.
8. Ms Doyle said that the Notice to Quit which was issued was in terms of ground 1 as the Respondent wants to sell the Property as she no longer wants to be a landlord. Mr Karwowski also has a property that he owns and lets out. Is rented to family members who have agreed to leave at the end of the year. He is looking to sell that property then. The deposit for that property is in an approved scheme. Ms Doyle said that the Applicant had not fully understood her legal responsibilities as a landlord which led to her breaching the regulations. She has now taken full legal advice on her duties and obligations. She has ensured that all matters are now in order.
9. In terms of who the application is against it is clear from the titled deeds that the Respondent is the only owner of the Property. She is the only registered landlord albeit that she has Mr Karwowski as her agent. The Tribunal granted the motion by Ms Doyle to amend the partes to just read as Ms Kamak as the only Respondent.
10. The Tribunal was satisfied that there had been a breach of the Regulations. It accepted that the Respondent was not fully aware of her obligations and duties. However, this is not a mitigating factor as she should have taken appropriate advice prior to renting out her property as to what those legal obligations and duties were. The Tribunal did note that she has taken full legal advice now and

acted upon that advice resulting in the deposit being lodged. The Applicant is still living in the Property which means that she has not suffered any loss due to the deposit not being lodged. Yet it must not be missed that the deposit was not lodged for more than a three year period when the Regulations clearly state that it must be lodged within 30 days from the start of the tenancy. Taking it all into consideration the Tribunal considered that a one and half times the deposit penalty was fair, reasonable and appropriate amount (£600).

Findings and reason for decision

11. A Private Rented Tenancy Agreement commenced 4th June 2021. The tenancy is ongoing.
12. A deposit of £400 was paid on or around 4th June 2021.
13. The deposit was not lodged within an approved deposit scheme within 30 days from the start of the tenancy. This is a breach of the regulations.
14. The deposit was lodged within Letting Protection Service Scotland on 1st January 2025.
15. The Respondent has now taken full legal advice in terms of her obligations as a landlord. She took this advice on or around December 2024. This was the reason that the deposit was lodged on 1st January 2025. She is now up to date with all of her legal obligations.
16. The Respondent admits that the deposit was not lodged in an approved scheme within 30 days from the start of the tenancy. The Respondent has issued a Notice to Leave upon the Applicant based on ground 1, namely that she intends to sell the Property. She does not wish to continue to be a landlord. Her partner is also selling his rental property at the end of the year

Decision

17. The Respondent has a duty under Regulation 3 to place the deposit in an approved scheme within the specified time but failed to do so. The Respondent has engaged with the Tribunal process, through her solicitor, to explain why the deposit was late and what steps had been taken to prevent such a situation happening again. The Applicant is still a tenant and as such has suffered no loss from the deposit being lodged within the legal timescales. The Tribunal decided that a fair, just and proportionate sanction would be to order the Respondent to pay the Applicant one and half times the amount of the deposit (£600.00).

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.

Gabrielle Miller

14th April 2026

Legal Member/Chair

Date