



**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/19/2880**

**Re: Property at 2/2, 3 Cherrybank Road, Merrylee, Langside, Glasgow, G43 2PQ (“the Property”)**

**Parties:**

**Miss Alana Kettles, 3 Earl Haig Avenue, Leven, Fife, KY8 4EE (“the Applicant”)**

**Mr Stuart MacDougall, 21 Kingsford Avenue, Muirend, Glasgow, G44 3EU (“the Respondent”)**

**Tribunal Member:**

**Susanne L. M. Tanner Q.C. (Legal Member)  
Elizabeth Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order must be made in terms of Regulation 10 of the 2011 Regulations requiring the Respondent to pay to the Applicants the sum of ONE THOUSAND POUNDS (£1000.00) Sterling**

## **1. Procedural background**

- 1.1. On 13 September 2019, the Applicant lodged an application (“the Application”) with the tribunal.

- 1.2. The Application is made in terms of 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”).
- 1.3. The Applicant stated that she was seeking an order of “£500 deposit back” and “not pay uplift fees or re-decoration”.
- 1.4. The Applicant attached to the Application:
  - 1.4.1. Paper apart for Section 7, Application details
  - 1.4.2. Copy bank statement
  - 1.4.3. Screen shots of text messages
  - 1.4.4. Copy letting agreements (two, both unsigned)
  - 1.4.5. Copy emails; and
  - 1.4.6. Screenshot of Letting site.
- 1.5. On 4 October 2019, the Application was considered by a legal member with delegated powers of the President. Further information was requested from the Applicant. The Applicant was asked, amongst other things, to clarify whether the Application was made in terms of Rule 103 or should be amended to proceed as a civil application under Rule 70. She was also asked whether she wished to provide redacted bank statements as all documents would be crossed over to the other party. The Applicant was asked to provide a response by 18 October 2019.
- 1.6. On 18 October 2019, the Applicant sent an email with redacted bank statements, a further copy of the tenancy agreement that she stated she had been asked to sign and emails from the tenancy deposit protection schemes. She confirmed that having taken advice, she wished to proceed with the Application under Rule 103. She telephoned the tribunal’s offices to confirm that the information has been received.
- 1.7. On 31 October 2019, the Application was considered by a legal member with delegated powers of the President. Due to an administrative error, the Applicant’s email of 18 October 2019, with attachments, was not passed to the Legal Member. It was rejected on the basis that the Applicant had not responded to the request for further information. The Applicant was informed of the rejection by letter of 1 November 2019.
- 1.8. On 28 November 2019, the Applicant sought permission to appeal the rejection decision, on the basis that she had provided the requested information by 18 October 2019.

- 1.9. On 3 December 2019, the tribunal's administration apologised to the Applicant for missing the email of 18 October 2019 and advised her that it would be passed to the tribunal with her request for permission to appeal.
- 1.10. On 23 December 2019, the Application was considered by a legal member with delegated powers of the President and it was determined that the tribunal would review its decision of 31 October 2019 in accordance with Rule 39 of the 2017 Rules. The tribunal accepted that the Applicant had in fact responded to the request for further information but due to administrative oversight the information had not been before the legal member when the decision to reject had been made. Accordingly the tribunal considered that it would be in the interests of justice to set aside its decision of 31 October 2019 and refer the matter back to the Chamber President to determine further procedure.
- 1.11. On 3 January 2020 the Application the Application was considered by a legal member with delegated powers of the President was accepted for determination by the tribunal.
- 1.12. By letter of 14 January 2020, the tribunal notified the parties that the Application had been referred to the tribunal and that a Case Management Discussion had been fixed for 17 February 2020 at 1400h at Glasgow Tribunals centre, 20 York Street, Glasgow. Parties were advised that the tribunal may do anything at a Case Management Discussion which is may do at a hearing, including making a decision on the application. Parties were advised that if they do not attend the Case Management Discussion, this will not stop a decision or order being made by the tribunal if the tribunal considers 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 4 February 2020. The Application and notification was served on the Respondent by Sheriff Officers on 16 January 2020.
- 1.13. On 31 January 2020, the Respondent requested that the CMD proceed by conference call, or otherwise be postponed due to work commitments in London. The CMD was changed to a conference call at the same time and date.
- 1.14. On 31 January 2020, the Respondent submitted written representations to the tribunal's administration. A copy was sent to the Applicant.
- 1.15. On 12 February 2020, the Respondent submitted additional written representations and two documents: a printout from MyDepositsScotland and an email to Glasgow City Council Tax department.

1.16. On 12 February 2020, the Applicant attached further written representations and further evidence: an inventory.

1.17. On 16 February 2020, the Respondent submitted further evidence: an email chain with a Mr Steven Mathewson. The tribunal's administration advised the Respondent that as it was late it would be at the discretion of the legal member whether or not to accept the evidence.

1.18. On 17 February 2020, the Case Management Discussion ("CMD") took place. Reference is made to the Notes on the CMD which were prepared by the Legal Member and sent to both parties. A hearing was fixed for 18 March 2020 at 2pm in Glasgow Tribunals Centre and both parties were advised of the date, time and place. The Applicant said that her witness would be Mr Steven Mathewson. The Respondent stated that he would consider the question of witnesses. Both parties were asked to familiarise themselves with the tribunal's Rules of Procedure.

## **2. Hearing – 18 March 2020 at 1400h at Glasgow Tribunals Centre, 20 York Street, Glasgow**

2.1. The Applicant attended the hearing with her father, Alan Kettles as a supporter.

2.2. The Respondent attended the hearing.

### **2.3. Witnesses**

2.4. Arrangements were made for the Applicant's witness Mr Stewart Mathewson to attend by conference call when required to give evidence. Mr Mathewson dialled in by conference call at 2.15pm. He advised the tribunal clerk that he was in a taxi on the way to Belfast airport. He stated that he only had 10 or 15 minutes availability and was boarding a flight at 1730h. The tribunal clerk advised Mr Mathewson that he would be called when required to give evidence. For reasons outlined below, Mr Mathewson was not required to give evidence and the tribunal clerk contacted him to advise that he was no longer required.

### **2.5. Preliminary issue – end date of the tenancy for the purposes of Regulation 9(2) of the 2011 Regulations**

2.6. The tribunal advised the parties that the first matter they wished to be addressed on was the end date of the tenancy.

2.7. The Applicant stated that the end date of the tenancy was some time in June 2019. She said that she had spoken on the phone to the Respondent and she also referred to text messages (A1.1-1.5). She stated that she notified the Respondent in April 2019 that she intended to leave in June and that she was flexible about when she left in June. She stated that she paid a full month's rent in advance on 1 June 2019 for the period to 30 June 2019. She referred to the texts in A.1.4 and stated that on 15 June she was coming from Fife as she had agreed to meet the Respondent at 4.30pm. Her travel connections got cancelled and she was unable to make the meeting with the Respondent at 4.30pm. After she arrived at the Property she was told by the Respondent to put the keys through the letterbox. She stated that she paid her council tax up until 15 June as I was getting letters saying that that was the end of her occupation. She was unsure about the date to which the utility bills were paid. She stated that because of the circumstances on 15 June she did not go back into the flat after she was asked by the Respondent to post the keys through the letterbox. She stated that there was a bed and a set of drawers left in the Property. Her rent was paid rent until 30 June 2019. The Application to the tribunal was made on 13 September 2019.

2.8. The Respondent stated that he and the Applicant had agreed between themselves that 15 June 2019 was the departure date. He stated that he had lined up a letting agent to re-let the Property and was expecting it to be unfurnished when she left. He agreed that the Applicant had paid a full month's rent on 1 June 2019 for the period to 30 June 2019. He stated that he had not refunded the two weeks of overpaid rent to the Applicant because it was never requested by her. He has not made any proposals to the Applicant refund her overpaid rent. He submitted that the end date of the tenancy was 15 June 2019.

2.9. The Applicant responded that she disputed that they had agreed a date in June for the tenancy to end. She stated that when she had discussed matters with the Respondent in April 2019 there was no advance date agreed at that time for the end of the tenancy. She paid her rent as normal on 1 June 2019. She stated that the Respondent had phoned her on Friday 14 June, asking her to go to the Property on Saturday 15 June to meet him. She stated that due to the issues outlined with travel and the Respondent's request that she put the keys through the door that day, that she was not able to move the furniture due to the lack of notice.

## **2.10. Issues in dispute**

2.11. The parties agreed, as recorded at the CMD, that the main focus of their dispute was whether the payment of £500.00 made by the Applicant prior to

the start of the tenancy was a deposit (the Applicant's contention) or an overpayment of rent (the Respondent's contention).

## **2.12. Applicant's Evidence and submissions relative to payment of deposit**

2.13. The Applicant referred to A2, which is two emails sent to her by the Respondent with two versions of the lease agreement. She stated that the second one was sent after they agreed to a change of date for the monthly rent payments from 5<sup>th</sup> to 1<sup>st</sup> of the month and that the documents were otherwise the same. She stated that the Respondent's second email, sending the second lease agreement, provided his bank details for payment of rent. The Applicant stated that at the time that the Respondent sent the lease agreements to her she had no idea that he should have sent her a Private Residential Tenancy agreement.

2.14. The Applicant stated that as per the letting agreement which she entered into, there was a deposit of £500.00 payable. She stated that she paid the into the account specified by the Respondent. She referred to a text the Respondent sent to her on 15 August 2018 (A5.4), which said, *"I hope all goes well today Alana and I was looking to draft our tenancy agreement but before I do can you pay your deposit within the next week and then make rent payments from the 1<sup>st</sup> of the month onwards? With thanks."* She referred to his text of 17 August 2018 (A5.1) *"Thanks Alana. Bank details are 876919 70717960 TSB"* and stated that this was the text in which he had provided details for the deposit payment. The account he gave was a different account from the one that he had specified for rent payments in his email. She referred to her text of 18 August 2018 at 1706 (A5.1 and A5.2): *"Hi Stuart, That's the deposit sent to you. I'm with TSB too so hopefully be quick. I go back to England on Sunday to work for 2 weeks, Steven has offered to pick up contract tomorrow it it's ready? Also I was wondering if you wanted to check the flat beforehand? Hope you are well, Alana"* and stated that this was her text confirming that the deposit had been paid that day.

2.15. The Applicant referred to A3, her bank statement showing a faster payment of £500.00 identified as *"Stuart Flat Deposit"* on 18.8.2018. She stated that on 1<sup>st</sup> September 2018 she had paid the first month's rent into a different account, as she has been asked to do by the Respondent.

2.16. The Applicant referred to A4, screenshots showing her bank statements which had sent to the former tenant, Mr Steven Mathewson, and which Mr Mathewson had then sent to the Respondent in relation to his own deposit dispute with the Respondent in relation to the previous tenancy. She stated that at the time that the previous tenant was leaving the flat and she agreed to

take it on, she did not know that he had left his deposit in the tenancy deposit protection scheme. She stated that she had signed her own letting agreement which specified that a deposit was payable. She stated that she is aware that the previous tenant has recently received his deposit back following a dispute with the Respondent.

2.17. The Applicant confirmed that she did not require to call Mr Mathewson as a witness and he was advised accordingly.

2.18. The Applicant submitted that the £500.00 payment she made to the Respondent on 18 August 2018 was clearly a deposit payment in terms of the lease, into the bank account specified by the Respondent for her deposit payment, and was not payment of rent.

### **2.19. Respondent's Evidence and submissions in response**

2.20. The Respondent stated that he has two other rental properties in addition to the Property. He stated that all three are now in the management of letting agents, although there have been periods where one or more have not been managed. He stated that throughout the Applicant's tenancy he was self-managing the Property. He stated that he created the letting agreement document himself and he thinks that he used an online template or possibly a copy of one he had used previously. He stated that he was unaware at the time that he produced the letting agreement of the change in the law to introduce Private Residential Tenancies ("PRT"s) in December 2017. He stated that he now knows that he should not have purported to enter into a Short Assured Tenancy agreement, as he received notification from his letting agent who now looks after both of his Cherybank properties (including the Property).

2.21. The Respondent stated that he accepts that there is a reference in the "letting agreement" with the Applicant to taking a deposit of £500 and that there is no reference in the "letting agreement" to paying the deposit into a tenancy deposit protection scheme.

2.22. With reference to the email on 17 August 2018, in which the Respondent sent his bank details to the Applicant with a request for the deposit payment he stated that he cannot remember sending the email but having seen it, he accepts that he did send it.

2.23. The Respondent stated that it was never his intention to take a deposit from the Applicant because he already held a deposit from the previous tenant, Mr Mathewson, which he intended to keep secured in the scheme throughout the Applicant's tenancy. He stated that when Mr Mathewson gave notice to

end the previous tenancy, Mr Mathewson recommended the Applicant to the Respondent as a new tenant for the Property. The Respondent stated that he was sceptical about affordability and he asked Mr Mathewson if he could send some recent payslips from the Applicant. He stated that Mr Mathewson shared 3 and a half months' worth of payslips for the Applicant, with her consent, which came to just over £2100.00. The Respondent referred to the discussion at the CMD about this point in which he had referred to the email trail relating to that issue, in which he outlined his nervousness and stated that in order for the Applicant to become a tenant, Mr Mathewson would have to leave his deposit in the scheme. The Respondent stated that he had intended to use Mr Mathewson's deposit for the Applicant's tenancy. The Respondent stated that he did not notify the scheme about a change in the tenant details for the deposit which had been lodged.

- 2.24. The Respondent stated that he had a relationship with Mr Mathewson from November 2016 when he became a tenant through a letting agency, up until he left at the end of August 2018. The Respondent stated that Mr Mathewson was on a short assured tenancy. The Respondent stated that Mr Mathewson was content with the arrangement to leave Mr Mathewson's deposit in the scheme throughout the Applicant's tenancy and that he and Mr Mathewson entered into discussions about the release of Mr Mathewson's deposit and the condition of the property after the Applicant's tenancy ended in June 2019.
- 2.25. The Respondent stated that he accepts that it was a new tenancy that was entered into with the Applicant and that he is not suggesting that there was an assignation of Mr Mathewson's tenancy interest to the Applicant.
- 2.26. The Respondent stated that when he sent the letting agreement to the Applicant she came back with a question about the payment date and that it changed from 5<sup>th</sup> to 1<sup>st</sup> of each month, which is why a second version of the letting agreement was sent out.
- 2.27. In relation to the text messages which had been referred to by the Applicant (A5), the Respondent stated that he no longer has these text messages on his phone and he does not remember them. He accepted that the messages were sent and received between him and the Applicant and that the messages from 17 and 18 August 2018 relate to his request for a deposit with provision of bank details and the Applicant's confirmation that it had been paid the following day.
- 2.28. The tribunal chair offered the Respondent an adjournment to consider his position. He stated that he did not require an adjournment and was content to continue.

- 2.29. The Respondent stated that the message in which he requested a deposit was a “miscommunication” because of the acceptance of Mr Mathewson that his deposit would be held throughout the Applicant’s tenancy.
- 2.30. The Respondent accepted that in messages between him and the Applicant that he had asked for a deposit and provided different account details from those provided for rent payments. He stated that it is clear from the messages that he asked for a deposit. He stated that it was never his intention to ask for a deposit because of the affordability point and the fact that he did not want to take a risk on a potential tenant who could not afford to pay the rent. He stated that he accepts that the £500.00 payment by the Applicant to him on 18 August was not rent (as he had contended in written submissions and at the CMD). When asked by the tribunal why he had submitted that 11 payments were rent, when this one was paid into a different account, the Respondent stated that the confusion has arisen because it is not an account which he uses regularly. He stated that the Applicant’s deposit is still in his TSB account to this day and has not been lodged in a deposit protection scheme.
- 2.31. The Respondent stated that his intention in relation to the Applicant’s money in his account was that he had offered to return it on a “no prejudice” basis if she dropped the tribunal case against him. He stated that no “settlement” had been reached with the Applicant following the CMD and that he had therefore retained the money in his account. He stated that although the Applicant stated in the Application that she wanted her £500.00 back, she had then said that the Application was a failure to lodge the deposit and the Applicant had not made any request to him to get her £500.00 back. The Respondent stated that as the money is sitting in his account, he was in a position to pay the money back to the Applicant as soon as they left the tribunal room, if that would be appropriate and she would be happy with that.
- 2.32. The Respondent stated that he wished to make some further submissions in relation to his failure to lodge the Applicant’s deposit. He stated that he has been a landlord for nearly 10 years. He stated that the other deposits have all been lodged, including Steven Mathewson’s deposit. He stated that this situation has been a combination of miscommunication and misunderstanding. He stated that at the start of the Applicant’s tenancy he had tried to do the right thing but was a little bit sceptical over the affordability point. He stated that he had probably rushed to get someone into a tenancy too quickly and he recognised a whole host of things were done too quickly and not correctly, including the tenancy documentation. He stated that now he has agents looking after his existing properties. He stated that the discussions with Steven Mathewson which had taken place over June/July/August 2019 after Alana left were all driven by the condition of the property when it was returned

to him and that it was not how it had been when he handed over the keys to Steven Mathewson and then to the Applicant. He stated that he is a proud landlord, maintains his properties to the best possible condition and whenever there were problems he would get someone to go out. He stated that following the Applicant leaving in June 2019, it took until 18 December 2019 until a new tenant could move into the property, due to a whole host of factors relating to the condition of the property. He referred to some of the documents which related to furniture being left in the Property by the Applicant. He stated that because there was a bed frame in the letting agent's advertising, the council did not award the unoccupied discount for Council Tax. He stated that he had paid for the uplift of the furniture. He stated that he had gone through the deposit scheme process for disputed deductions with Mr Mathewson and that that had only been resolved in the past few weeks through the scheme. He stated that the adjudicator ruled to award the deposit to Steven Mathewson on the basis that when the tenancy ended he should not be liable for any damage to the property caused after that time. The Respondent stated that he was asking the tribunal to exercise discretion to make an award at the lowest level appropriate. He stated that this process had placed stress and strain on him and that he had to come back from London for the tribunal hearing.

2.33. The Applicant stated that she would like to point out that this has been very stressful for her as well. She stated that she has gone back to her nursing studies and had had to travel all the way from Fife for the hearing. She stated that the Respondent had been having conversations that she has no idea about in relation to her affordability and his desire to retain Mr Mathewson's deposit. She stated that as far as she is concerned, she paid her deposit as required, she paid rent, she gave sufficient notice of her intention to end the tenancy in June and no date was committed to at that time. She stated that she got a phone call from the Respondent on Friday 14 June to leave on Saturday 15 June 2019, which she was happy to do, but could not move the remaining things bed frame and drawers that quickly and offered to leave them in the Property. She stated that as regards to the state of the flat it was in a lovely area but there was mould and it needed a lick of paint. She stated that she had sent evidence to Steven's deposit scheme dispute. She stated that in relation to her own tenancy, she never got an inventory. She stated that this was the first time that she had met the Respondent and that nobody ever came to the flat unless there were repairs. She stated that she appreciated the Respondent's offer made during the hearing to pay the £500.00 deposit back to her from his account.

#### **2.34. Adjournment and further discussion**

2.35. The tribunal adjourned to consider matters. After the hearing resumed, the parties advised the tribunal that during the adjournment the Respondent

had begun the process of paying back the Applicant's deposit but had had an issue with an online password. The Respondent gave an undertaking that he would make the payment, stating that he was intending to make the payment when he had the password. The tribunal advised the Respondent that his offer to refund the Applicant's deposit (and any refund of overpaid rent) was separate from the question of whether there had been a failure to comply with the Regulations in respect of a failure to lodge the tenancy deposit and provide the prescribed information.

## **2.36. Findings in Fact**

- 2.36.1. The Respondent has owned three rental properties, including the Property, for around ten years.
- 2.36.2. The Respondent's rental properties are currently managed by a letting agent.
- 2.36.3. In August 2018, the Respondent and the Applicant entered into a tenancy agreement in respect of the Property with a start date of 1 September 2018.
- 2.36.4. At the time of entering into a tenancy agreement with the Applicant, the Respondent managed the Property himself.
- 2.36.5. The Respondent issued to the Applicant and the parties signed a purported Short Assured Tenancy agreement but the tenancy was a Private Residential Tenancy.
- 2.36.6. The tenancy agreement provided that the Applicant should pay a tenancy deposit of £500.00.
- 2.36.7. On 17 August 2018, the Respondent provided bank details to the Applicant for payment of her tenancy deposit, which was a different account from that provided for payments of rent.
- 2.36.8. On 18 August 2018, the Tenant paid the tenancy deposit of £500.00 to the Respondent's specified bank account for payment of the tenancy deposit.
- 2.36.9. The tenancy deposit should have been lodged in a tenancy deposit protection scheme within 30 working days of 1 September 2018.

- 2.36.10. The Respondent did not lodge the Applicant's tenancy deposit in a tenancy deposit protection scheme at any time.
- 2.36.11. The Respondent did not provide the prescribed information to the Applicant in respect of tenancy deposits at any time.
- 2.36.12. The Respondent took a tenancy deposit from a former tenant of the Property, Mr Stewart Mathewson on about 19 May 2017 and it was lodged in a tenancy deposit protection scheme.
- 2.36.13. The tenancy deposit held in the name of Mr Stewart Mathewson related to Mr Mathewson's tenancy, which ended before the Applicant's tenancy began.
- 2.36.14. The Respondent agreed with Mr Mathewson that his deposit would be held as security during the Applicant's tenancy.
- 2.36.15. The Applicant was unaware of the Respondent's arrangement with Mr Mathewson.
- 2.36.16. The Respondent did not notify the deposit protection scheme of any changes to the tenancy deposit held in the name of Mr Mathewson.
- 2.36.17. Mr Mathewson's deposit remained lodged in a deposit protection scheme until around February 2020 when it was released in full to Mr Mathewson following a dispute with the respondent about proposed deductions, which was dealt with via the scheme.
- 2.36.18. The Applicant's tenancy ended by agreement of the parties on 15 June 2019.
- 2.36.19. The Applicant overpaid rent for the period from 16 to 30 June 2019.
- 2.36.20. As at 18 March 2020, the Applicant's deposit remained in a bank account of the Respondent.
- 2.36.21. The Respondent provided an undertaking on 18 March 2020 that he would repay the Applicant's deposit to her.
- 2.36.22. The Applicant's tenancy deposit has been unprotected for a period of nineteen months.

## **2.37. Discussion**

2.38. The tribunal took into account its findings in fact and exercised its discretion to make a payment order by the Respondent to the Applicant in the sum of £1000.00, which is equivalent to two times the deposit of £500.00.

2.39. In particular, the tribunal had regard to the fact that the deposit was unprotected for the period of nineteen months when it should have been lodged within 30 working days of the start of the tenancy. The deposit remained unlodged as at the date of the hearing on 18 March 2020. The Applicant had lost the opportunity to claim her deposit back via the scheme after the tenancy ended in June 2019. The tribunal took account of the fact that the Respondent is a landlord of some ten year's standing, with three rental properties, who had been operating without a letting agent at the time that he entered into the tenancy agreement with the Applicant in 2018. The Respondent admitted that a number of things were not done correctly in relation to the Applicant's tenancy, including the fact that he did not issue the correct tenancy documentation at the start. The tribunal considered the fact that the Respondent had retained Mr Mathewson's deposit throughout the Applicant's tenancy and that the Respondent stated that he had not intended to take a deposit from the Applicant but found that this was not mitigatory in circumstances where the Respondent had simultaneously requested a deposit from the Applicant and provided separate bank details to her for its payment. The tribunal also noted that until the date of the hearing, when he was presented with evidence which he accepted showed that he had requested and received the deposit payment into a separate account from that used for rent payments, he maintained that the extra £500.00 was an overpayment of rent by the Applicant which he had offered to repay to her (although had not done so because she had continued the tribunal proceedings).

2.40. The tribunal noted that during the hearing the Respondent gave an undertaking to the Applicant that he would repay her deposit from his bank account but was unable to do so on the day because he required a separate online code. The tribunal also noted that during the hearing the Respondent acknowledged that the Applicant had overpaid rent for the period from 16 to 30 June 2019 but no undertaking was given in respect of repayment to the Applicant. The tribunal advised the Applicant that if these were matters she wished to pursue through the tribunal, a civil application would be required as it could not be dealt with in the context of her application made in terms of Rule 103.

2.41. The tribunal informed the Applicant that the Payment order could be enforced by the Applicant against the Respondent after the expiry of the permission to appeal period.

**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.**

**18 March 2020**

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**Susanne L M Tanner Q.C.  
Legal Member/Chair**