

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Regulations 9 and 10 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 (“the 2011 Regulations”)**

**Chamber Ref: FTS/HPC/PR/19/0723**

**Re: Property at Flat 3/3 48 Eastwood Avenue, Shawlands, Glasgow, G41 3NS (“the Property”)**

**Parties:**

**Miss Tracy Wilson, 83 Crofton Avenue, Croftfoot, Glasgow, G44 5HY (“the Applicant”)**

**Mr Raheel Akram T/A Absolute Properties, Office 67, 22 Nottinghill Gate, London, W11 3JE (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is Ordered to make payment to the Applicant the sum of One Thousand Three Hundred and Fifty Pounds Sterling (£1,350)**

**Findings in Fact**

**The parties entered into a short assured tenancy agreement in respect of the property at Flat 3/3 48 Eastwood Avenue, Glasgow G41 3NS. The tenancy commenced on or about 31 December 2010.**

**The Applicant, who was the tenant, paid to the Respondent, who was the landlord, a deposit in the sum of £450.**

**The Applicant moved out of the property on 7 December 2018.**

**The Applicant’s deposit was not protected. The Respondent did not fulfil his duties under the 2011 Regulations.**

## **Reasons**

**The 2011 Regulations came into force on 7 March 2011 but are retrospective.**

**The Respondent had a legal duty arising under Regulation 3 of the 2011 Regulations to pay the Applicant's deposit into the scheme administrator of an approved scheme.**

**The Applicant has produced documentary evidence from the 3 scheme administrators operating in Scotland (SafeDeposits Scotland, MyDeposits Scotland and Letting Protection Service Scotland) which disclose and prove that the Respondent has not fulfilled his duty.**

**The jurisdiction under the 2011 Regulations has transferred from the Sheriff Court to the First-tier Tribunal for Scotland.**

**Regulation 9 of the 2011 Regulations entitles the Applicant to make this application seeking payment from the Respondent.**

**Regulation 10 of the 2011 Regulations contains a mandatory direction that the Tribunal "must order the landlord to pay the tenant an amount not exceeding three times the amount of the tenancy deposit".**

**The power to compel the Respondent to make payment is by way of a penalty. The level of such a penalty is discretionary and requires to be proportionate.**

**There are no mitigating facts or circumstances in this case. The Respondent has not engaged with the Tribunal process. The deposit remains unaccounted for. It has not been repaid to the Applicant. The Respondent operates from behind a TRADING AS designation operating from a mail box address in London.**

**Accordingly the Tribunal found that it was reasonable, just and proportionate to impose a sanction upon the Respondent in the sum of three times the amount of the originating deposit paid.**

## 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.

R Mill

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Legal Member/Chair

\_\_\_\_\_  
Date

24 / 5 / 19