



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

Chamber Ref: FTS/HPC/CV/23/1913

Re: Property at 40 Struan Drive, Inverkeithing, KY11 1AR (“the Property”)

Parties:

Miss Natalia Mania, 28 Primrose Avenue, Rosyth, KY11 2SS (“the Applicant”)

Mr Kristofer Richards, 13 Otterston Grove, Dalgety Bay, KY11 9PA (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make a Payment Order in the sum of £300 against the Respondent in favour of the Applicant.

Summary of Discussion

1. The Applicant is the former tenant of the property at 40 Struan Drive Inverkeithing KY11 1AR. (“the Property”). The Respondent is the owner and Landlord of the property. The applicant asked the Tribunal to make a Payment Order in the amount of the deposit of £525. In a separate but related application under reference PR/23/1840, the applicant seeks a Payment Order for the failure of the respondent to pay a deposit into the safe deposit scheme.

2. A hearing took place remotely by Videolink on 1 March 2024. The Applicant and the Respondent were present. The applicant was represented by Miss Walker, Frontline Fife. The respondent represented himself.
3. The following facts were agreed at the hearing:
 - a. A meeting took place between the parties and the previous tenant on 7 January 2019. At the request of the respondent, it was agreed that the applicant would give the deposit of £525 directly to the former tenant.
 - b. The respondent held the deposit of the former tenant in his bank account. It was not placed into a safe deposit scheme.
 - c. The respondent failed to register the applicant's deposit in a safe deposit scheme.
 - d. The deposit was unprotected from 7 January 2019.
 - e. The applicant was not responsible or liable for the damage caused to the front door on 7 January 2019. The damage was caused by the removal company instructed by the former tenant.
 - f. Agreement was reached, before the commencement of the tenancy, that the applicant could paint the walls.
 - g. The respondent offered the applicant £400 in settlement of the claim in both applications. This was rejected by the applicant.
4. Having agreed these facts, the outstanding matters to be determined were:
 - a) whether the parties agreed that the applicant could paper the walls;
 - b) If no agreement was reached, the cost of reinstating the walls to the condition at the start of the tenancy.
 - c) who was responsible for putting up shelving and making pin marks on the walls;
 - d) the state of the walls before and on termination of the tenancy.
5. The applicant claimed that agreement had been reached that she could not only paint the walls but paper them too. The respondent accepted that agreement had been reached to paint the walls but not to paper them as this

would have incurred additional cost to reinstate the walls to their original state at the termination of the tenancy.

6. The applicant has produced a copy of a text message sent to the respondent which mentions the agreement in relation to the paint but not the papering. We noted that the applicant generally followed up conversation she had with the respondent by text message in order to have a record of it. The fact that she did not mention the papering in that text message was damaging to her position. Accordingly, we prefer the evidence of the respondent and find that the applicant did not have permission to wallpaper two rooms.
7. The respondent redecorated one of the rooms and put it back to its initial position (painted and not papered) and left the other room as it was. The property has since been sold. The respondent has not been disadvantaged by the papering of the second room. However, he has been disadvantaged by having to reinstate one room. He had to strip the wallpaper off. The walls were in good order and all that was required thereafter was paint and labour.
8. The respondent stated that it took him 2 to 3 days to paint the property. We were aware that the tenancy lasted more than four years. With the exception of the removal of the wallpaper and re-painting of one room, we find that there would generally be normal wear and tear in the rest of the rooms. The respondent therefore needs to establish that more than normal wear and tear occurred.
9. In respect of that matter, the respondent asserted that the applicant put up shelves and made pin marks in the walls that required to be filled and sanded. The applicant's position was that she did not put up or attach anything to the walls throughout the duration of the tenancy.
10. The applicant asserted that the shelves were present at the commencement of the tenancy and this could be confirmed by the former tenant who may also be able to describe the state of the walls at the end of her tenancy. The applicant had notified the Tribunal of her intention to call witnesses. The list of witnesses included the former tenant. The applicant's representative was given the opportunity to call the former tenant and chose not to do so.
11. Having considered this part of the claim, we were not satisfied that there was a sufficiency of evidence to show that the applicant had put up shelving or damaged the walls as no inventory had been taken and no photographs were produced before and after the tenancy.
12. This meant that we were satisfied that only one room required to be stripped and repainted. We took the view that this would take the respondent landlord

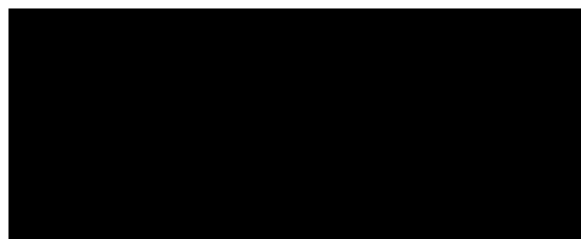
around 2 days. The respondent landlord carried out the work himself. We took the view that £100 per day for his labour was reasonable. He spent £25 on materials. Accordingly, we were satisfied that £225 was due from the applicant's deposit to make good the property.

13. This means that the applicant is entitled to the sum of £525 - £225 = £300. Accordingly, we decided to make a Payment order in the sum of £300.

Outcome

To make a Payment Order in the sum of £300 against the Respondent in favour of the Applicant.

NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.



1 March 2024

Legal Member/Chair

Date