

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/18/2453

Re: Property at 7 Briarlea, Kelty, KY4 0BQ (“the Property”)

Parties:

Mr Robert Cumming, The Keepers, Glentruim, Newtonmore, PH20 1BE (“the Applicant”)

Mrs Lorna Hendry, Craignook, Cruickness, Inverkeithing, KY11 1HJ (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant:

Sum of TWO THOUSAND FOUR HUNDRED AND TWENTY SIX POUNDS AND FIFTY SEVEN PENCE (£2426.57) STERLING

An application was submitted to the Tribunal dated 20 September 2018. Said application was submitted under Rule 70, being an application for payment in relation to an assured tenancy. Said application sought a payment order in the sum £4626.57.

A Case Management Discussion first took place on 7 January 2019. The applicant had appeared personally at said Case Management Discussion but there had been no appearance by or on behalf of the Respondent. The Case Management Discussion was adjourned to 5 February 2019 to allow the Applicant to produce a schedule of time spent on renovating the property and for vouching of receipts for materials and contractors used, and for the lodging of photographs.

The Applicant had lodged a breakdown of time spend renovating the property, together with further invoices in advance of 5 February 2019. The Respondent had advised the Tribunal by letter of 22 January 2019 that she would not be contesting the application.

A further Case Management Discussion took place on 5 February 2019. The Applicant appeared personally. There was no appearance by or on behalf of the Respondent

The application sought payment in the sum of £4626.57. An application had been made to Safe Deposits Scotland to seek repayment of the tenancy deposit held of £800. The claim made to Safe Deposits had been in the total sum of £2806.57 to cover the following losses: supply and fit of garage lock; decoration works; oven clean; cleaning oil spill on driveway; removing bike stand from garage concrete floor; cleaning; and rent arrears. This claim made to Safe Deposits Scotland was not disputed by the Respondent and the deposit of £800 was returned in full.

The application to the Tribunal seeks payment of the remainder of that balance, being £2006.57, together with the following items: re-plastering work needed in the property (£420); repairs needed to staircase bannister (£1700) and works required to rectify the state of the garden (£500). The Applicant had produced an invoice to evidence the cost of the re-plastering works. No invoice was produced in respect of the garden costs, as no works had yet been carried out and the quote obtained by the Applicant was given verbally. A quotation was lodged in respect of the costs for the staircase works. These works had not been carried out yet. However, no evidence was lodged by the Applicant to show the state of the garden or staircase at the commencement of the tenancy, compared to the end of tenancy, to show any deterioration or damage by the Respondent in this regard.

The Inventory lodged by the Applicant and which was completed by the Applicant's former managing agents at the commencement of the let was not particularly detailed, made no reference to the condition of either of the staircase banister or garden, and there were no photographs of either at commencement of let. The Tribunal was not satisfied that a loss was demonstrated in respect of these items by the Applicant.

The Tribunal was satisfied that the sum of £2426.57 should be awarded, being the sum sought under the deposit claim against which the tenant had not disputed, as well as the cost of the re-plastering works for which an invoice had been produced.

Accordingly, the Tribunal granted an order against the Respondent for payment of the sum of TWO THOUSAND FOUR HUNDRED AND TWENTY SIX POUNDS AND FIFTY SEVEN PENCE (£2426.57) STERLING

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.

Fiona Watson

Legal Member/Chair

8/2/19.

Date