

**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/19/0932**

Re: Property at 16 Claremont Bank, Edinburgh, EH7 4DR (“the Property”)

Parties:

**Mrs Hyacinth Lynch, Ms Kirsteen Lynch, 5 Boulevard Garibaldi, 75015 Paris,
Paris, France; Dragarbrunnfgatan, 11B-LGH-1107, 75332 Uppsala, Uppsala,
Sweden, Sweden (“the Applicant”)**

**Mrs Jill Elm, 5 The Mews, 90 West Princes Street, Helensburgh, G84 8XD (“the
Respondent”)**

Tribunal Members:

Yvonne McKenna (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

BACKGROUND

This is an application for a payment order dated 22nd March 2019 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.

The Applicants seeks in their application under reference FTS/HPC/CV/19/0932 payment of arrears of rental payments in the sum of £3475.00 in relation to the Property from the Respondent. They provided with their application a copy of the tenancy agreement dated 23rd August 2013, AT5 dated 22nd August 2013 and a Schedule of rent arrears .

In addition, the Applicants seek in their application under reference FTS/HPC/CV/19/0931 payment in relation to damages to the Property which they maintain were caused by the Respondent .There is a separate claim for damaged or destroyed items .This produced a total of £3360 sought in this regard. Together with this application the Applicants lodged the copy tenancy agreement dated 23rd August 2013, AT5 dated 22nd August 2013, Copy Inventory on the condition of the Property signed by the Respondent on 27th August 2013 , copy images of property

damage and various quotations for required work. Reference was made in the application to clause 4 of the tenancy agreement ;-

“4.THE INVENTORY

4.1 Prior to the commencement of the tenancy, the landlord/agent and tenant shall attend the accommodation at a mutually convenient time to check the inventory of contents. The tenant agrees that the signed Inventory, attached as Schedule 1 to this agreement is a full and accurate record of the state and condition of the accommodation and its fixtures, fittings and contents at the commencement of the tenancy. The tenant has a period of seven days after signing the Inventory to ensure that the Inventory is correct and to tell the landlord of any discrepancies in writing, after which the tenant shall be deemed to be fully satisfied with the terms. The tenant agrees to replace or repair (or to pay the cost, at the option of the landlord) any of the contents which are destroyed, damaged, removed or lost during the tenancy and be liable for the costs of making good any damage or cleaning found necessary at the end of the tenancy, fair wear and tear excepted. The landlord may deduct any costs for which the tenant is liable under this clause from the deposit under clause 3.

4.2 The tenant shall not remove any of the fixtures, fittings or any items specified in the said Inventory from the accommodation or store them in alternative premises without obtaining the prior written consent of the landlord. Where such consent is granted, the tenant shall ensure that any items are stored safely without damage or deterioration and at the end of the tenancy are returned to the places described in the said Inventory or as found at the commencement of the tenancy.”

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served with the notification of the application, paper and guidance notes from the Tribunal by letter dated 17th April 2019 which was served on her by Sheriff Officers on 23rd April 2019. Written representations were invited from the Respondent by 3rd May 2019. No representations have been received.

CASE MANAGEMENT DISCUSSION (CMD)

A CMD was held on 14th May 2019 at George House , George Street Edinburgh. The Applicants were represented by solicitor Mr. Paul McIntosh who was here as a local agent for the principal solicitors Jackson Boyd LLP. The Respondent was not present .

Given that both applications concerned the Property the Tribunal conjoined the cases .

The Applicants solicitor invited the Tribunal to grant an order for payment in the sum of £3360.00 in relation to damaged or destroyed items and explained how this figure

was comprised with reference to the material provided with the application. The Tribunal Chair noted that there were various heads of claim namely

- £220.00 for an electrical quotation for supplying and installing a new electric hob in the kitchen and replacing a broken light fitment in one of the bedrooms
- £175.00 for a plumbing quotation for replacing taps on the bathroom sink said to be caused by corrosive product
- £770.00 for a joinery quotation for repairing a shaky wall socket, removing and hanging new curtains, repainting living room walls, cleaning kitchen windows inside and out, filling in small holes on dining table and varnishing, replacing carpets in 2 bedrooms due to carpet burns, removing and replacing living room carpet, repairing front door due to abusive slamming.
- £885.00 for a second joinery quotation for amongst other things ,repairing and replacing wooden casing behind front door, repairing bannister, replacing nuts and bolts to loft ladder, stripping and repainting mantelpiece in living room due to candle damage, painting living room ceiling, repairing hole in kitchen door due to cat flap and cleaning and varnishing door, repairing broken back door panel, repairing and painting kitchen ceiling, repairing antique wardrobe door ,sanding and varnishing damaged desk , repairing chest of drawers, and cleaning and painting various window frames
- £250.00 for a soiled mattress(no vouching provided)
- £850.00 for repairs to gutters due to issues not being reported(no vouching provided)
- £240.00 quotation for repairs to a marble hearth.

She indicated that there was no vouching at all for the guttering issue and in relation to the mattress there was a copy photograph which was of poor quality and did not substantiate the damage. A brief adjournment was afforded to the Applicant's Representative to provide further information. After this adjournment he indicated that he no longer sought damages for these two heads of claim and did not require a continuation to provide further details. He invited the Tribunal to make an order for payment of £2260.00 in relation to the damages claim.

The Applicants sought the sum of £3475.00 in respect of rent arrears incurred up until the date when the Respondent quit the property, and referred the Tribunal to a rent statement of arrears disclosing this amount as outstanding. The Tribunal Chair indicated that her calculations from the schedule showed that £3375 should be the sum outstanding. Mr. McIntosh agreed with this arithmetic and sought to amend the sum sued for to this amount.

FINDINGS IN FACT

The parties entered into a short assured tenancy of the Property dated 23rd August 2013

Rent was payable by the Respondent to the Applicants at the rate of £695.00 per month

The Respondent has failed to pay the rent due for the entire period from 23/02/2014 to 22/08/2014.

Allowing for a credit from the return of the deposit of £695.00 the sum of £3375.00 is outstanding by the Respondent by way of rent arrears.

After the Respondent left the Property at the end of the lease there was damage to the Property as verified by the quotations and photographs produced by the Applicants.

The sum of £2260.00 is outstanding and due to the Applicants by the Respondents in relation to the same.

REASONS FOR DECISION

The Applicants have produced a schedule showing the failure to pay the rent due during the period 23/02/2014 to 22/08/2014. They have also provided the Tribunal with the Inventory showing the property at the start of the tenancy and quotations and photographs showing the damage at the time the Property was vacated by the Respondent. The Respondent has not taken any steps to dispute the position and has offered no contrary evidence.

DECISION

The Respondent should be ordered to pay to the Applicants the sum of £3375.00 in relation to case FTS/HPC/CV/19/0932 and £ 2,260.00 in relation to case reference FTS/HPC/CV/19/0931.

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.

Y McKenna

Legal Member/Chair

14/05/19

Date