



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 (“the 2014 Act”) and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”)

Chamber Ref: FTS/HPC/CV/19/2906

Re: Property at 8 Mid Carbarns, Wishaw, ML2 0DF (“the Property”)

Parties:

Mr David Whyte, Mrs Louise Whyte, Kinninghall Farmhouse, Hawick, TD9 8LH (“the Applicant”)

Mr Scott Magunnigal, Address Unknown, (“the Respondent”)

Tribunal Members:

Graham Dunlop (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the applicant was entitled to an order for payment by the respondent in the sum of £1,252.75

Background

- 1. By application dated 16th September 2019 the applicant applied to the Tribunal for an order for payment in respect of rent arrears of £685.75, and repair work to the property of £600 (being £1,100 less the deposit held of £500).**
- 2. A Case Management Discussion was fixed for 6th December 2019. The respondent’s whereabouts are unknown and accordingly service of the papers could not be effected for the December CMD. Accordingly a new date of 13th January 2020 was fixed. Service was effected by advertisement on the Tribunal’s website between 6th December 2019 and 13th January 2020.**

Case Management Discussion

- 3. A case management discussion (“the CMD”) was held on 13th January 2020 at which Mr Whyte and Victoria Lafferty of Empire Property appeared for the applicant. The respondent did not attend.**
- 4. In advance of the CMD the applicant had provided a rent statement showing outstanding rent arrears of £685.75. Ms Lafferty confirmed this was correct.**
- 5. Ms Lafferty advised the Tribunal that the repair works comprised cleaning, garden works, painting works, and replacement of kitchen linoleum. A discussion took place on the necessity of the works in particular the painting works. Ms Lafferty explained that the property had been freshly painted prior to the tenancy but that the respondent had painted some walls in bold colours. Photographs showing the necessary, cleaning, painting and repair works were provided to the Tribunal. The painting works were restricted to the walls which had been painted in bold colours.**
- 6. The Tribunal was provided with a receipt for the various works dated 11th August 2019.**

Findings in Fact

- 7. The parties entered into a short assured tenancy commencing on 10th April 2017 at a monthly rent of £500. The deposit of £500 was paid prior to entry.**
- 8. That the respondent vacated the property in or around June 2019 and returned the keys to the offices of Empire Property.**
- 9. That rent arrears of £685.75 were due and owing by end June 2019**
- 10. That the respondent/tenant left the property requiring cleaning works and clearing works to the garden. That the sum of £250 was reasonable incurred in cleaning and clearing the property.**
- 11. That the respondent had painted some walls of the property in bold colours contrary to the requirements of clause 16 of the tenancy. That**

the sum of £750 had reasonably been incurred in the painting of the walls.

12. That the linoleum had been damaged but that some wear and tear should be expected. The Tribunal found that the sum of £100 was excessive and discounted the sum by 33% to £67.

13. That the deposit of £500 had been allocated to meet part payment of the repair costs.

Reasons for Decision

14. The Tribunal was satisfied that (on the balance of probabilities) (1) the documents and oral submissions demonstrated that the parties had entered the tenancy and that rent arrears of £685.75 were outstanding (2) the cleaning, painting, and repair works were due under the terms of the tenancy (clause 28).

Decision

15. The Tribunal finds the applicant entitled to an order for payment by the respondent in the sum of £1,252.75

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.


Legal Member/Chair

Date

13th January 2020