



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

Chamber Ref: FTS/HPC/CV/20/1894

Re: Property at 8 Bloomfield Crescent, Arbroath, DD11 3LD (“the Property”)

Parties:

Mr Chris Ettershank, 39 Dens Road, Arbroath, DD1 1RU (“the Applicant”)

Miss Jordan Urquhart, 47 Benedict Road, Arbroath, DD11 5EY (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the sum of £8523 should be granted against the Respondent in favour of the Applicant.

Background

1. By application dated 8 September 2020 the Applicant seeks a payment order in relation to the cost of re-instating the property at the end of the Respondent’s tenancy. The Applicant lodged documents in support of the application including a tenancy agreement, invoices, photographs, a photo schedule of the property, rent statement and copies of text messages with the Respondent.
2. A copy of the application and supporting documents were served on the Respondent by Sheriff Officer on 9 November 2020. Both parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 10 December 2020 at 10am and that they were required to participate.
3. The case called for a CMD on 10 December 2020 at 10am The Applicant participated. The Respondent did not participate.

4. During the CMD the Applicant advised the Legal Member that was seeking a payment order for £8758, being the cost of re-instating the property because of damage caused by the Respondent during her occupation of same. The Legal Member discussed the application with the Applicant and noted the following:
- (i) £7100 is sought for the installation of a new kitchen. The Applicant advised that the Respondent removed and damaged cupboard doors, damaged units, and kitchen appliances, such as the cooker. The damage was so extensive that it was more cost effective to replace the entire kitchen rather than just the units and appliances themselves. The Legal Member noted that two photographs were lodged of the kitchen showing substantial damage to part of it. The Applicant stated that he is the director of a company which fits kitchens and that his company carried out the work. An invoice from Chris Ettershank, joiners, and kitchen fitters, dated 26 January 2020, had been lodged. This includes an item – supply and fit new replacement kitchen, £4400. The Applicant indicated that he would require to check his paperwork to clarify the difference between the sum specified in the application and the invoice. He also confirmed that he could lodge further photographs to demonstrate that the whole kitchen required to be replaced.
 - (ii) £1026 is sought for decoration. The Applicant advised that the whole house had been decorated before the Respondent moved in. However, she then painted and put-up wallpaper, badly, leaving the whole house in a mess. He confirmed that photographs could be provided to evidence this. He also confirmed that the invoice submitted from Terry Clark, dated 26 June 2020, related to this work. It is for a larger sum (£1540) because additional external painting was carried out which was unrelated to the damage caused by the Respondent.
 - (iii) £210 is sought for clearing the house and garden and £75 for weeding the garden. The Legal Member noted that a photograph has been provided showing the garden full of broken furniture and black bin bags. The slabs and Monoblock are also full of weeds and moss. An invoice had been lodged from Clearspace Stripout Services dated 4 December 2019, for £150. This appears to be for clearing the kitchen, weeding, and clearing the garden. The Applicant advised that he would require to check his paperwork to explain the discrepancy between the sum sought and the invoice.
 - (iv) £335 is sought for cleaning the property and carpets. The Applicant indicated that the cost of cleaning the carpets was £100. No receipt had been produced but he said that he could provide evidence, such as a copy of part of a bank statement showing the transaction, and photographs of the soiled carpets. He advised that he does not have a receipt for cleaning the property. The Legal Member noted that £235 is quite a substantial sum for this. The Applicant confirmed that he could provide photographs of the condition of the property and additional information to support the sum sought for cleaning.
 - (v) £12 is sought for window cleaning. The Applicant advised that he did not have a receipt from the window cleaner but could provide photographs of the windows.
5. The Legal member determined that the application should be continued to a further CMD for the production of additional information and evidence. The Applicant was directed to provide further photographs showing the condition of the property at the

end of the tenancy, an explanation for the discrepancies between the sums claimed and the invoices, and evidence in relation to cleaning and carpet cleaning.

6. The parties were notified that a further CMD would take place by telephone conference call on 11 February 2021 at 11am. Prior to the CMD the Applicant submitted a series of photographs and written submissions.
7. The CMD took place on 11 February 2021 at 11am by telephone conference call. The Applicant participated. The Respondent did not participate.

Case Management Discussion

8. The Legal Member discussed the various aspects of the application with the Applicant; -
 - (i) The kitchen. In his written submissions Mr Ettershank explained that VAT was due in relation to the invoice of £4400 for the kitchen, so the total sum actually due in terms of the Chris Ettershank invoice is £5280. Some of the work was carried out by other contractors – Jamie Ettershank Electrics (£500), WOL Electrical (£270), ILG Plumbing (£900) and Bob Eaton (£200). This additional work comes to a total of £1820 and accounts for the remainder of the sum claimed for the kitchen. The Legal Member noted that invoices from all of these contractors had been submitted with the application. Except for the WOL Electrical invoice, they were for larger amounts than those specified by the Applicant. Mr Ettershank advised that these invoices included other works carried out which are not part of the application. The Legal Member noted that the Applicant had provided a series of photographs of the kitchen showing extensive damage to units, cupboards, appliances and floor. Mr Ettershank advised the Legal Member that he let the property to the Respondent immediately after purchasing same. He referred to the property schedule lodged with the application which included photographs of the property before the Respondent moved in and which showed the kitchen to be in a good and undamaged condition.
 - (ii) Decoration. The Legal Member noted that the Mr Ettershank had submitted an invoice in relation to the redecoration from Terry Clark. He had also submitted photographs of the property as evidence of the need to re-decorate.
 - (iii) Clearing house and garden and weeding. Mr Ettershank did not submit additional evidence in relation to these charges and was unable to explain the discrepancy between the invoice for £150 and the sum claimed of £285. He advised the Legal Member that he would restrict his claim to the £150 specified in the invoice.
 - (iv) Cleaning and carpet cleaning. Mr Ettershank had submitted a bank transaction record showing a payment of £100 for carpet cleaning. In his written submissions he advised that the charge for £235 for cleaning the house is based on his partner spending 20 hours cleaning the property (at a cost of £10 per hour) and £35 for materials. The Legal Member noted that the cleaning carried out at the property excluded the kitchen, the carpets, the garden, and the outside of the windows. It therefore appeared that £235 (and 20 hours) was an excessive estimate of the work required. Mr Ettershank advised that he was prepared to restrict his claim to £135.

- (v) Window cleaning. No receipt has been produced for this item although photographs of windows have been produced.

Findings in Fact

- 9. The Applicant is the owner and former landlord of the property.
- 10. The Respondent was the tenant of the property in terms of a short assured tenancy. The tenancy commenced on 1 November 2017.
- 11. The Respondent was evicted on or about 2 October 2019.
- 12. The Respondent caused damage to the property during the tenancy and left it in a dirty condition at the end of the tenancy.
- 13. The Applicant incurred the cost of £8523 re-instating the property to its pre-tenancy condition.

Reasons for Decision

- 14. The Legal Member considered the application, the supporting documentation and the information provided by the Applicant at both CMDs.
- 15. In terms of the tenancy agreement the Respondent is obliged to repair, replace, or pay for any of the contents of the property which are destroyed, damaged, removed or lost. (Clause 7.1). She was obliged to take reasonable care of the accommodation, including keeping it clean. (Clause 11.4). She was prohibited from carrying out unauthorised alterations or decoration without consent (Clause 11.5). She was obliged to dispose of all refuse in an appropriate manner. (Clause 11.8). She was prohibited from vandalising or damaging the Landlord's property. (Clause 12.3.v). The Respondent is liable for the cost of any repair which is required because of damage caused wilfully or negligently by her (Clause 15.7). The Legal Member is therefore satisfied that the Applicant is entitled to recover the cost of re-instating the property, where this cost is due to damage and neglect by the Respondent during her occupation of the property.
- 16. From the invoices submitted, the photographs of the kitchen at the start and end of the tenancy and the information provided by the Applicant at both CMDs the Legal Member is satisfied that the Respondent caused extensive damage to the whole kitchen including cupboards, units, flooring, and appliances. The kitchen required to be replaced. The Legal Member determines that the Applicant is entitled to a payment order in the sum of £7100 for the replacement of the kitchen.
- 17. From the invoices, photographs and information provided at both CMDs the Legal Member is satisfied that the property required to be re-decorated because of damage and neglect by the Respondent. The Legal Member determines that the Applicant is entitled to a payment order for £1026 for re-decoration.
- 18. From the invoice submitted, the photographs and the information provided by the Applicant at the CMDs the Legal Member is satisfied that the Applicant incurred the cost of £150 to have the property and garden cleared of rubbish and weeding carried out in the garden. The Applicant is entitled to a payment order for this sum.
- 19. The Legal Member is satisfied that the carpets at the property required to be cleaned and that the Applicant spent £100 on this. The Legal Member is also satisfied that

the property required to be cleaned following the Respondent's eviction and that the Applicant is entitled to an order for the sum of £135 for cleaning the property. The Legal Member also noted that the windows of the property required to be cleaned and that the Applicant is entitled to an order for £12 for window cleaning.

20. The Legal Member concludes that the Applicant is entitled to a payment order for £8523 for the cost of re-instating the property at the end of the tenancy.

Decision

21. The Legal Member determines that a payment order should be granted against the Respondent for the sum of £8523.

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.

Josephine Bonnar

Josephine Bonnar, Legal Member

11 February 2021