



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 71(1) of the Private Housing  
(Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/19/0805**

**Re: Property at 83 Overhaugh Street, Galashiels, TD1 1DL (“the Property”)**

**Parties:**

**Europe Investments Ltd, 30 East Main Street, Darvel, KA17 0HP (“the Applicant”)**

**Mr Steven Liam Feenan, formerly residing at 9 Monkswood Road, Newtongrange, Dalkeith, EH22 4QY and whose whereabouts are currently unknown (“the Respondent”)**

**Tribunal Members:**

**Andrew Upton (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is liable to make payment to the Applicant in the sum of TWO THOUSAND SIX HUNDRED AND SIXTY EIGHT POUNDS AND EIGHTY SIX PENCE (£2,668.86) STERLING.**

**STATEMENT OF REASONS**

1. This case called before me for a Case Management Discussion on 2 July 2019 at 10.00am. Mr Kenneth Johnstone of the applicant was present. There was no appearance by or on behalf of the respondent.
2. The respondent’s current whereabouts are unknown. The application was served by advertisement on the Tribunal’s website in accordance with Rule 6A of the Procedure Rules. In addition, I am grateful to Mr Johnstone for advising that he had separately made the respondent’s parents aware of today’s Case Management Discussion. In all of the circumstances, I am

**A Upton**

satisfied that the respondent has had notice of both the application and the Case Management Discussion.

3. Mr Johnstone invited me to grant the order for payment sought in the application. It was the applicant's position that the respondent had been its tenant under a Private Residential Tenancy and, as a consequence, owed certain contractual and other duties to take reasonable care of the let property. The applicant's submission was that the respondent had breached those duties by causing damage to the property. I was referred to a statement of account narrating the sums due by the respondent and the sums paid by the respondent. In particular, I was directed to the following entries, all of which were supported by copy invoices:-

- a. Repairs by Scotlaw - £225.00 (outstanding balance £178.86)
- b. Cleaning service by C Wheelan- £370.00
- c. Redecoration by J Neil - £520.00
- d. Door repairs by Scotlaw - £1,600.00

4. In total, the sum claimed by the applicant from the respondent was £2,668.86. I am satisfied that the respondent has had notice of the allegations made against him and has chosen not to dispute those allegations. Accordingly, I make the following findings in fact:-

- a. The respondent was the tenant of the applicant under and in terms of a Private Residential Tenancy Agreement dated 13 November 2018.
- b. The let property was 83 Overhaugh Street, Galashiels, TD1 1DL.
- c. During the course of the tenancy, the respondent caused damage to the property, including damage to multiple doors to the property and the yellowing of walls by smoking within the property.
- d. The total cost of remedying the damage caused by the respondent is £2,668.86.

5. I also make the following findings in fact and law:-

- a. By causing damage to the property, the respondent acted in breach of his contractual obligations owed to the applicant to the applicant's loss.
- b. By causing damage to the property, the respondent acted in breach of his duty of care to the applicant to the applicant's loss.
- c. The applicant is entitled to reparation therefor from the respondent.
- d. The sum of £2,668.86 is a reasonable estimate of the applicant's loss and damage.

6. Accordingly, I find the respondent liable to the applicant in the sum of £2,668.86.

## **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.

**A Upton**

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**Legal Member/Chair**

2 July 2019

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**Date**