

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 Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) Chamber Ref: FTS/HPC/CV/21/0187

Re: Property at 12 Vennel Mews, Cow Vennel, Perth, PH2 8RR (“the Property”)

Parties:

Miss Jade Christie and Mr Reece Venn, formerly of 12 Vennel Mews, Cow Vennel, Perth, PH2 8RR; 12 Vennel Mews, Cow Vennel, Perth, PH2 8PR (“the Applicants”)

A&S Properties, 7 County Place, Perth, PH2 8EE (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Angus Anderson (Ordinary Member)

Decision (in absence of the Parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Application be dismissed.

Background

1. By application received between 25 January 2021 and 15 September 2021 (“the Application”), the Applicants applied to the Tribunal for an Order requiring the Respondents to pay compensation in the sum of £280.00 for damage caused to their belongings caused by dampness and mould in the Property. The Application comprised a copy of the tenancy agreement, a statement of the sum claimed and photographs of the damaged belongings and of mould in the Property. The Application was accepted by the Tribunal and a Case Management Discussion (the “first CMD”) was fixed for 5 May 2021 at 10.00 by telephone conference.
2. The Applicants lodged receipts for £102.94 and £197.99 for replacements of the clothing they claimed had been damaged by the dampness and mould in the Property.
3. The Respondents lodged receipts for minor works carried out to the Property, a survey report on the Property which indicated life-style condensation and recommended installation of a Flat Master extractor and receipt for the installation of that extractor.

First CMD

4. The first CMD took place on 5 May 2021 by telephone at which the Applicants and the Respondents took part. The first CMD was adjourned to await the outcome of a Repairing Standards case FTS/HPC/RP/21/0141 raised by the Applicants against the Respondents, the purpose of which would determine the causes, if any, of dampness at the Property and so assist the Parties and the Tribunal in progressing the Application.
5. The Applicants vacated the Property at some point following the first CMD.
6. The Repairing Standards case FTS/HPC/RP/21/0141 was determined by a tribunal in its decision dated 13 September 2021. That tribunal assessed the Property in respect of dampness and found there to be no dampness at the Property.
7. A second CMD ("the second CMD") was fixed for 3 December 2021 at 10.00 by telephone conference and intimated to the Parties by post and email.

Second CMD

8. The second CMD took place on 3 December 2021 at 10.00 by telephone conference. Neither Party appeared and so neither Party took part.
9. The Tribunal, having regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussionincluding making a decision", proceeded to determine the Application on the information before it.

Findings in Fact.

10. From the Application, the evidence lodged by the Parties and the outcome of Repairing Standards case FTS/HPC/RP/21/0141, the Tribunal found the following:
 - i) There had been a tenancy of the Property between the Parties;
 - ii) The Respondents instructed a survey report on the Property which indicated life-style condensation and, thereafter, the Respondents installed a Flat Master extractor in the Property;
 - iii) The Applicants' belongings appear to have been affected by mould;
 - iv) The Applicants purchased replacement clothing at a cost of £300.93;
 - v) Repairing Standards case FTS/HPC/RP/21/0141 determined that there was no dampness at the Property.

Decision of the Tribunal and Reasons for the Decision.

11. The Tribunal was mindful that the burden of proof on the balance of probabilities, being the standard of proof required in civil proceeding, fell to the Applicants. Therefore, it was for the Applicants to establish that there had been damage to their belongings and that the damage had been caused directly or indirectly by the actions or failings of the Respondents. From the Findings in Facts, there was no evidence before the Tribunal to

establish that there had been damage to the Applicants' belongings which had been caused directly or indirectly by the actions or failings of actions of the Respondents. Accordingly, the Tribunal dismissed the Application.

Right of Appeal and Recall

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.

In addition, in terms of Rule 30 of the Rules, the Parties are entitled to apply to recall the Decision within 14 days of the date the decision was sent to them.



Legal Member/Chair

3 December 2021
Date