



**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/22/3239

**Re: Property at 215/6 South Duddingston Park, Edinburgh, EH15 3EJ (“the
Property”)**

Parties:

**Mr Antonio Di Lorenzo, Mr Roberto Di Lorenzo, Yarra Doon Upper, Mainsfield
Avenue, Morebattle, Kelso, TD5 8QP; Yarra Doon Upper Flat, Mainsfield Avenue,
Morebattle, Kelso, Scottish Borders, TD5 8QP (“the Applicant”)**

**Mr Raymond Sandison, 48 Crocket Gardens, Penicuik, Midlothian, EH26 9BB
 (“the Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment in the amount of £900 should
be made.**

Background

1. The background to the case is outlined in the Case Management Discussion Note dated 21st April 2023.
2. At the case Management Discussion the issues to be resolved were identified as:
 - a) Whether the Applicants should be held responsible for the cost of replacing the locks on the Property and extra cleaning that the Respondent and his wife had to carry out after the tenancy had ended. There was also an argument of damage to lampshades and soft furnishings.

- b) Whether the cost of the cleaning efforts of the Respondent and his wife and the damage to soft furnishings were correctly valued at £150 being the difference between the deduction figure of £300 sought by the Respondent less the cost of an emergency locksmith at a cost of £150 (an invoice in respect of which had been provided)
 - c) The Applicants position was that the Property was dirty when they moved in and they may wish to argue that it was left in a less dirty state than when they moved in to the Property
3. Fact agreed between the parties was identified as follows:
 - a) The Applicants accept that they did not return the keys to the Property to the respondent but said that this was because they had found out that the deposit had not been lodged in a recognised scheme and they were concerned that they might not get the deposit back
 4. The Tribunal wished the Respondent to lodge the Check In Inventory
 5. The Applicants raised a separate application against the Respondent seeking a payment as he had not lodged the deposit in an appropriate tenancy deposit scheme. The reference was FTS/HPC/PR/22/3234. On 21st April 2023 the Respondent was ordered to pay an amount equally twice the deposit to the Applicants in resolution of that case.

Hearing

6. The hearing took place by videoconference on 18th September 2023. The Applicants were not present due to work commitments, but were represented by their representative, Mrs Susan Di Lorenzo. The Respondent represented himself.
7. Neither party had lodged any documents since the Case Management Discussion and neither party wished to call any witnesses.
8. Mr Sandison said that he still held the deposit. He said that he had been unhappy with the condition of the property when the applicants left. It was in a mess as far as he was concerned. He said it was in a disgraceful state. Everything had to be deep cleaned and washed down. He accepted that he had not placed the deposit in an approved scheme, but said that he was seeking a fair and reasonable solution. He had carried out a visual inspection before the tenancy ended and raised a couple of issues. He said that the tenants had a duty of care to clean the property before they left. When pressed about what he meant by "duty of care" he said that the Applicants had been sent a guidance note telling them what was required. They had not left the property in a reasonable condition.
9. The Tribunal asked why the Respondent had not lodged the Check In Inventory. He said he had forgotten, but he had it beside him. He accepted that he could not refer to it as he had not lodged it.

10. The Respondent said that he had received a text message at the start of the tenancy from the applicants saying that they were happy with the property. He had not received any reports from them that they thought that the property was dirty. The Respondent said that a cleaning company had gone in the day before the Applicants moved in, and it was immaculate. He conceded that an element of cleaning was always required when tenants vacated a property.
11. The Respondent asked how he quantified the sum he was seeking to deduct from the deposit. He said that it was the cost of paint to touch up the walls and the cost, calculated at minimum wage, for the time spent by him and his wife to clean. He also mentioned stained mattresses and the broken lampshade.
12. Mrs Di Lorenzo said that as far as she was concerned no cleaning had been done before the Applicants moved in. She said that there was a very quick turnaround from the previous tenants. She said that the respondent had said that a professional cleaner would be brought in but that did not happen.
13. Mrs Di Lorenzo questioned the Respondent's interpretation of the text sent. She said that the applicants were happy that they had found a flat, not that they were happy with the state of the flat. She said that the respondent did not leave a copy of the Check In Inventory with the Applicants.
14. Mrs Di Lorenzo said that when the Respondent conducted the initial check he did so with no notice and without the Applicants being present. He sent a text to say he was not happy with the condition of the property.
15. Mrs Di Lorenzo said that the Respondent had given several different explanations about the deduction he wished to make. First he said it was for paint, then he said it was for the lampshade. She said that the lampshade was so old it had perished. He then said that the deduction was for the state of the kitchen.
16. Mrs Di Lorenzo said that the Respondent had told the Applicants that he was putting the property on the market and would be ripping out the kitchen and replacing it before that. She said that the kitchen was falling to pieces and the doors would not close properly.
17. Mrs Di Lorenzo said that they had asked the Respondent for a breakdown on several occasions, but he had never provided it to them.
18. On the issue of the locks requiring to be changed Mrs Di Lorenzo said that the Applicants were happy to accept the invoice and were happy to meet the cost.

Findings In Fact

1. The parties entered in to a Private Residential Tenancy agreement for the Applicants to rent 215/6 South Duddingston Park, Edinburgh, EH15 3EJ from the Respondent;
2. The Agreement commenced on 31st August 2019,
3. The monthly rent was £850;
4. The Applicants paid a deposit to the Respondent in the amount of £1050;
5. The respondent did not place the deposit in an approved tenancy deposit scheme;
6. The tenancy came to an end on 31st July 2022;
7. The Applicants did not return the keys to the Respondent;
8. The cost to the Respondent of replacing the keys was £150;
9. The Respondent still holds the deposit.

Reasons For Decision

19. The Applicants accepted that they should have returned the keys and accepted that they should be responsible for the cost of replacement. They accepted that £150 was the cost.
20. The Respondent did not lodge the Check In Inventory despite being asked to do so. There was therefore no independent or agreed evidence before the Tribunal to give it a starting point.
21. The Respondent was vague about why he was seeking to deduct the remaining £150 and he provided no formal quantification for how he had arrived at that sum. He provided no receipts or estimates for replacement items. He therefore did not prove his case for making a deduction from the deposit.
22. The Tribunal decided that he should pay back the deposit amount of £1050 less £150 for replacement keys and lock change, totalling £900.
23. The Tribunal also took the view that if the deposit had been lodged in an approved scheme the parties would have had the benefit of the adjudication service, the point of which is to prevent landlords from unilaterally making unfair and unquantified deductions from deposits.

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.

[Redacted Signature]

18/09/2023

Legal Member/Chair

Date