

**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/PR/21/3090

Re: Property at 9 Millstream Court, Paisley, PA1 1RG (“the Property”)

Parties:

**Mr Obiora Umerah and Oluoma Michael, 40 Aberfeldy Avenue, Blantyre,
Glasgow, G72 0TB (“the Applicants”)**

Robert Edgar, 21 Brownside Drive, Barrhead, G78 1HN (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should be ordered to make payment to the Applicant of the sum of TWO HUNDRED POUNDS (£200)

Background

1. By application dated 9 December 2021, the applicant sought an order under section 16 of the Housing (Scotland) Act 2014 and in terms of rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 24 January 2022, the application was accepted by the Tribunal and referred for determination by the tribunal.

3. A Case Management Discussion (CMD) was set to take place on 1 April 2022 and appropriate intimation of that hearing was given to all parties

The Case Management Discussion

4. The Case Management Discussion (CMD) took place on 11 March 2022 .The first named applicant, Mr Obiora Umerah, attended personally. The respondent also attended personally
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters. The tribunal asked various questions with regard to the application and the applicant confirmed that he wished the tribunal to grant the order sought in the application .
6. The total sum claimed was six hundred pounds (£600) in respect of a deposit taken by the respondent when the parties had entered into a tenancy agreement relating to the property
7. The deposit was not returned to the applicants after the tenancy ended

Findings in fact

8. A tenancy agreement was entered into between the parties which commenced on 27 October 2017
9. A deposit of £600 was taken by the respondent
10. The deposit was never paid into an approved tenancy deposit scheme
11. The tenancy ended on 27 October 2021
12. The deposit has never been repaid by the respondent to the applicant
13. The deposit was held as security for the performance of the tenants' obligations under the lease.
14. At the conclusion of the lease the landlord required to carry out cleaning to the cooker, to replace the cooker hood and to deal with other items damaged as a result of the tenants' conduct

Discussion

15. This case relates to a claim by the applicants for the repayment of a deposit paid at the start of tenancy. It was agreed between the parties that a deposit of £600 was paid.
16. The tenancy agreement between the parties acknowledged that the deposit would be held as security for the performance of the tenant's obligations and to compensate the landlord for any breach including damage to the property cleaning and removal of rubbish.
17. The tenancy agreement required the tenants to leave the property in a clean and habitable condition at the end of the tenancy similar to the standard seen when starting the tenancy.
18. The landlord had provided a written response in advance of the case management discussion. In that response he set out a list of items which he indicated required to either be cleaned or replaced after the tenancy had concluded.
19. The landlord indicated that he required to have the oven and cooker cleaned which cost £100. He claimed that the cooker hood was so dirty that it required to be removed and replaced costing £150. He claimed that the blinds which had been fitted in each room had been significantly damaged by mould and had to be removed and replaced which cost £350. He claimed that the hinges inside some of the kitchen cupboards were rusted and dirty and had to be replaced costing £40.
20. In addition the landlord indicated that he required to carry out cleaning generally to the kitchen and to the carpets in the sitting room hall and bedrooms and to the cupboards within the kitchen. He did not provide any evidence of the cost of the cleaning.
21. It was the landlord's position that he was entitled to retain the entire deposit of £600 as it could cost him in excess of that to restore the property to a lettable condition.
22. After some discussion the applicant accepted that the cleaning of the oven, the replacement of the cooker hood and the work to replace the hinges was accepted as a tenants' liability. He did not accept that the tenants' behaviour or neglect had caused damage to the blinds. It was his position this had simply occurred because of the general wear and tear which might be expected over the course of a tenancy which lasted for four years.

Decision

23. In this case the parties agreed that the tribunal should make a decision at the case management discussion. They did not wish to fix a evidential hearing. Accordingly the tribunal required to make a decision based on the evidence available at the time.

24. The tribunal accepts the unchallenged evidence of the landlord that he incurred certain costs in cleaning the oven and cooker, in removing and replacing the cooker hood and in replacing the rusted and dirty hinges. The total sums claimed in respect of these three items was £290. Although no receipts have been produced the tribunal accepts that the amounts claimed in respect of these items do not appear to be excessive and fall within a reasonably expected range of such costs
25. With regard to the claim relating to the removal and replacement of the blinds the tribunal noted that the amount claimed by the landlord is £350. No proof of this payment was produced and the tenant did not accept this aspect of the claim. The tribunal noticed that the landlord also claims that he required to incur further unspecified costs to clean carpets and other areas within the property. No receipts for these claims were produced nor was any evidence produced showing the condition of any of these items (including the blinds) at the commencement of the tenancy. The tribunal is unable to accept any element of a claim for retention in respect of the items where no vouching has been made.
26. The tribunal is also unwilling to accept the claim that the blinds required to be completely replaced at a cost of £350. It was indicated to the tribunal that the blinds have been installed prior to the start of the tenancy and were therefore at least four years old at the conclusion of the tenancy. There is a general rule against betterment. It has to be accepted that during the course of a tenancy lasting four years that items will suffer deterioration through wear and tear. Accordingly the tribunal will only allow part of the claim in respect of the blinds.
27. The tribunal has accordingly determined that the amount of a deposit which should be retained by the landlord is £400 which reflects the items accepted by the applicant and a partial contribution towards the replacement of the blinds.
28. The tribunal orders that £200 of the deposit should be repaid by the landlord to the applicants
29. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

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.

J Bauld

Legal Member/Chair

Date

1 April 2022