



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 and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/CV/23/2106

Re: Property at 5/3 10 Buchanan Street, Glasgow, G1 3LB (“the Property”)

Parties:

Mr David McLaughlin and Mrs Joy McLaughlin (otherwise known as Josephine McLaughlin), 46 Barnton Avenue, Edinburgh, EH4 6JL (“the Applicants”)

Mr Adam Owen Newton whose current address is unknown (“the Respondent”)

Tribunal Member:

Martin McAllister (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be made against the Respondent for payment of the sum of FOUR THOUSAND FOUR HUNDRED AND FORTY EIGHT POUNDS 58 pence (£4448.58) to the Applicant.

Background

- 1. On 26 June 2023, the Applicants submitted an application to the First-tier Tribunal for Scotland seeking payment of the sum of £4448.58 in respect of rent arrears, painting, change of a lock, refitting of wardrobe doors, replacement of a toaster and cleaning.**
- 2. A case management discussion was held by teleconference on 12 December 2023.**

Preliminary Matters

3. There was no appearance by the Respondent and the Applicants were represented by Ms Brogan Varney of iResolve Legal.
4. It was noted that the application gave an address for the Respondent in Swansea, Wales. On 28 August 2023, Sheriff Officers provided a report to the Tribunal in which it was advised that a process server had attempted to effect service of the CMD notification and papers on 23 August 2023. The property was found to have been empty and undergoing refurbishment. The process server made telephone contact with the Respondent who undertook to provide his home address. This was not provided by him.
5. The Tribunal had a certificate of Service by Advertisement which confirmed that the details of the case management discussion had appeared in the Service by Advertisement page of its website from 1 November 2023 to 12 December 2023.
6. The Tribunal was satisfied that service of the application and the case management discussion had been effected.

The case management discussion

7. Ms Varney confirmed that she acted on behalf of the Applicants and that she was seeking a payment order for the sum of £4448.58 which was detailed in the application.
8. The purpose of a case management discussion was explained by the Legal Member. Ms Varney invited the Tribunal to determine the matter at the case management discussion and not to fix a Hearing.

9. Findings in Fact

- 9.1 The parties entered into a private residential tenancy agreement in respect of the Property.
- 9.2 The private residential tenancy agreement was dated 30 June 2022.
- 9.3 The tenancy commenced on 1 July 2022 and ended on 12 December 2022.
- 9.4 The monthly rent due under the private residential tenancy was £1470.
- 9.5 The sum due and unpaid in respect of rent as at 16 March 2023 was £2130.59.
- 9.6 The Property required to be decorated following the termination of the tenancy at a cost of £1680.
- 9.7 A toaster required to be replaced at termination of the tenancy at a cost of £54.99.
- 9.8 The Respondent did not return the keys of the Property at termination of the tenancy and the cost of fitting a replacement lock was £224.50.

- 9.9 Wardrobe doors had to be refitted at termination of the tenancy at a cost of £78.
- 9.10 The Respondent did not leave the Property in a satisfactory condition and the Applicants incurred cleaning costs of £280.50.
- 9.11 The Respondent has made no payment in respect of the sums due.

10. Documents before Tribunal

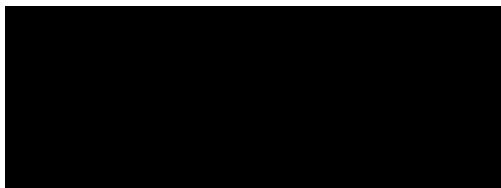
- 10.1 Private residential tenancy agreement dated 30 June 2022.
- 10.2 Rent statement from 1 October 2022 to 16 March 2023 showing arrears of rent of £2130.59.
- 10.3 Invoice from TB Property Maintenance in respect of painting costs of £1680.
- 10.4 Invoice from J.R. Joinery and Glazing Services for £224.50 in respect of costs of changing the lock.
- 10.5 Invoice from J.R. Joinery and Glazing Services for £78 in respect of costs of refitting wardrobe doors.
- 10.6 Invoice from 999 Cleaner Ltd for £280.50 in respect of costs of changing the lock.
- 10.7 Copy of advertisement for toaster.
- 10.8 Certificate of Service by advertisement.

Reasons

11. The Tribunal considered that there was no reason to adjourn the determination of the application to a Hearing. Ms Varney said that she had no further evidence to produce.
12. The Tribunal accepted that the Respondent owed at least £2,130.59 to the Applicants in respect of rent arrears. The Tribunal accepted that the respondent had an obligation, in terms of the private residential tenancy agreement, to pay the rent and that the rent statement was accurate.
13. Ms Varney said that, in terms of the private residential tenancy agreement, the Respondent was required to return keys at termination of the lease, to take care of the Property and not to damage the décor or fittings and to leave it in an acceptable condition. She said that, in all these obligations, the Respondent had failed. She said that the Applicants had been put to expense and that the invoices, rent statement and information provided to the Tribunal was sufficient vouching for the costs incurred by them.
14. The appropriate standard of proof is the balance of probabilities and the Tribunal considered that this threshold had been crossed and that it was appropriate to grant the payment order. It accepted all the documentary evidence before it.

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.



**Legal Member
12 December 2023**