



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/23/2846**

**Re: Property at 26 Kemnay Gardens, Dundee, DD4 7SR (“the Property”)**

**Parties:**

**Mr Mark Gallacher, Mrs Debbie Gallacher, 10 Argyle Street, Dundee, DD4 7AL (“the Applicant”)**

**Mr Christopher Paul Phillip, 26 Kemnay Gardens, Dundee, DD4 7SR (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order in the sum of Five thousand five hundred and twenty five pounds and ten pence (£5525.10)**

**Background**

- 1 By application to the Tribunal the Applicant sought an order for payment of outstanding rent arrears in the sum of £5525.10 against the Respondents. In support of the application the Applicant provided a copy of the private residential tenancy agreement between the parties, rent statement, copy invoices for maintenance, repairs and cleaning, a copy of the property inventory and photographs of the property at the commencement, and the end, of the tenancy.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers from the Chamber President intimated that there were no grounds upon which to reject the application. A Case Management Discussion was therefore assigned and a copy of the application paperwork together with the date and time of the Case Management Discussion with instructions for joining the teleconference was served upon the Respondent by Sheriff Officers on 9 November 2023.

## **Case Management Discussion**

- 3 The Applicant was represented at the Case Management Discussion by Ms Linda Fyfe of Laurie and Co, Solicitors. The Respondent was not in attendance. The Tribunal noted that he had received intimation of the application paperwork and the Case Management Discussion. The Tribunal therefore determined to proceed in his absence. Thereafter Ms Fyfe addressed the Tribunal on the application. She confirmed the Applicant sought an order for £5525.10. There had been no contact from the Respondent and no payments towards the outstanding amount. The Applicant had received the deposit which had been deducted from the sums outstanding.

## **Findings in Fact and Law**

- 4 The parties entered into a Tenancy Agreement in respect of the property dated 15 November 2023.
- 5 The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
- 6 In terms of Clause 8 of the said Tenancy Agreement the Respondent agreed to make payment of rent at the rate of £525 per month.
- 7 The tenancy between the parties terminated on 3 April 2023.
- 8 As at the date of termination rent arrears in the sum of £3462.10 were outstanding. The Respondent is liable to pay the arrears in terms of Clause 8 of the said Tenancy Agreement.
- 9 In terms of Clause 17 of the said Tenancy Agreement the Respondent undertook to take reasonable care of the property and to ensure the property and its fixtures and fittings were kept clean during the tenancy.
- 10 In terms of Clause 18 the Respondent agreed to be liable for the cost of repairs where the need for them was attributable to his fault or negligence, or the fault and negligence of any person residing or visiting with him.
- 11 The Respondent left the property in a state of disrepair at the end of the tenancy. The walls were scratched and damaged, the sliding wardrobe doors had been damaged and removed, the washing machine was damaged, light bulbs were not functioning or had been removed and the carpets were dirty and worn. The disrepair went beyond fair wear and tear. The Respondent also left personal items in the property which required to be removed and failed to leave the property in a reasonable state of cleanliness.

- 12 The Applicant incurred costs amounting to £2500 in reinstating the property and carrying out the necessary repairs together with cleaning costs in the sum of £88.
- 13 The Applicant applied to the deposit scheme for the full amount of the Respondent's deposit to be returned to the Applicant on the basis of the aforesaid disrepair. The Applicant received the deposit in full in the amount of £525.
- 14 The Respondents are liable to pay the Applicant the sum of £5525.10 under the terms of the tenancy agreement between the parties.
- 15 Despite repeated requests the Respondents have refused or delayed in making payment of the sum due.

### **Reasons for Decision**

- 16 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. It was clear that there were no matters in dispute that would require a hearing to be fixed. The Respondent had been served with the application paperwork but had failed to provide any response.
- 17 The Tribunal was satisfied, based on its findings in fact, that the Respondent had a contractual obligation to make payment of the sum of £5525.10 to the Applicant under the terms of the tenancy agreement between the parties. The Applicant had provided vouching for both the rent arrears and the reinstatement costs. There was nothing before the Tribunal to contradict the evidence put forward by the Applicant.
- 18 The Tribunal therefore determined to make an order for payment in the sum of £5525.10. The decision of the Tribunal was unanimous.

### **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.**



19 December 2023

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Legal Member/Chair

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Date