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 71 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/1808

Re: Property at 3 Sighthill Street, Edinburgh, EH11 4QQ ("the Property")

Parties:

Mr Norman Blair, 43/6 Deanhaugh Street, Edinburgh, EH4 1LR ("the Applicant")

Ms Rowan Hamilton, Mr Kevin Hamilton, 14 Kirkhill Drive, Edinburgh, EH16 5DW ("the Respondent")

Tribunal Members:

Alison Kelly (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment of £540 should be made against the First Named Respondent and the case against the Second Named Respondent should be dismissed as the action against him is premature.

Background

2. Reference is made to the Case Management Discussion Note for the background to this case.

Directions and Further Documents

3. After the Case Management Discussion the Tribunal issued Directions to the parties. These were sent to the parties by email on 24th November 2023.

4. The Respondent sent an email to the Tribunal on 12th January 2024 attaching additional photographs in accordance with the Direction.

5. On 15th January 2024 the Applicant sent an email to the Tribunal asking how to upload his video evidence.

6. On 18th January 2024 the Applicant sent an email to the Tribunal again asking how to upload the video evidence and attaching an invoice for a new fridge freezer, copy decision of the Tribunal in a case between the parties, FTS/HPC/PR/23/1983, in which it had been decided that the Applicant in this case was not in breach of the Tenancy Deposit Schemes (Scotland) Regulations 2011, some emails, a transcript of a text message and a "Submission in Law".

7. The Applicant did not provide all the documents required by the Direction. He was given permission to upload the video evidence and the Tribunal Members viewed it prior to the Hearing.

Hearing

8. The Hearing took place by teleconference. All parties were present and all parties represented themselves.

9. The Chairperson introduced everyone and explained the purpose of the Hearing and how it would be managed.

10. The Chairperson asked the Applicant why he had not complied with the Direction. He said that there had been a high number of emails in connection with the case and he had only actually realised that the Direction was there on the evening before the hearing.

11. The Chairperson went through the Direction with the Applicant to ascertain if the documents required by the Direction existed.

12. The Applicant said that he had only lodged the parts of the tenancy agreement had been written on. He never produces the whole tenancy agreement due to its length.

13. The Applicant said that he had decided before the CMD not to lodge photos 1 and 2.

14. The Applicant said that he did not have a receipt for the Henry Hoover.

15. The Applicant said that he did not have an invoice for the new fridge freezer which was in the property when the First Named Respondent took entry.

16. The Applicant said that there was no written communication with John Cairns, and no itemised quote or invoice.

17. The Applicant had not lodged an itemised list of dates and journeys made to the property because he had not seen the Direction, but had the information to hand.

18. The Applicant said that he had an invoice for the replacement carpets but did not have it to hand. He had paid for the carpets on his credit card. He said the information was all in his email to the respondent dated 20th April 2023. He said that he had got a quotation for the carpets and had charged the First Named Respondent the price on the quotation. He was relying on the quote he produced at the time of lodging the Application to establish the cost of the carpets.

The Applicant

19. The Applicant gave his evidence. He said that he had provided a written submission by way of his evidence and went on to give a summary of how the First Named Respondent had become the tenant. He said that the First named respondent began the tenancy on 1st March 2021. She was still abroad at the time. He emailed and her and told her to fill out a tenancy agreement online. He took the video that he had uploaded to the Tribunal on 1st March 2021.

20. The Applicant said that the First Named Respondent came back to the country around 23rd March 2021. He went to the property on 28th March 2021, sat at a table with her, and went over the tenancy agreement with her. He did not take a copy of the full tenancy agreement to go over, only a copy of the pages which were written on. He also took a copy of the Additional Tenancy terms and the Inventory. He did not get her to sign these. He said that letting Agents do not get tenants to sign them. He said that in thirty years of being a landlord he had never asked any tenant to sign an Inventory or Additional Terms.

21. The Applicant said that he had made notes on the back of the tenancy agreement regarding there being a Henry Hoover which was only three months old, and a new fridge. He also gave permission for the First Named Respondent to keep two dogs. He said the permission was given on the basis that she undertook to return the property in the same condition as she got it. He had assumed that she would keep the dogs in the shed at the rear of the property.

22. The Applicant said that every time he visited the property the smell of the dogs was becoming stronger and the dog hairs on the carpets were becoming thicker and thicker.

23. The Applicant said that on 3rd February 2022 he had received a text message from the First Named Respondent asking if she could replace the carpets in the living room and bedroom with laminate. He said he was happy as long as it was properly laid. He visited the property several times after that but did not make a fuss about the dog hairs as he thought that the First Named Respondent was replacing the flooring.

24. The First Named Respondent gave notice by text on 23rd March 2023 saying that she would be moving out on 30th April 2023.The Applicant said that he reminded her that she should return the property in the same condition as she had got it. He said that he had a large number of people interested in renting the property. He said that the Additional Terms allowed him to show the property to prospective tenants during the last month. The First Named Respondent said that she needed to get it cleaned up before he could show it. Around 8th or 9th April 2023 she told him that it was ready to be shown.

25. The Applicant went to the property on 12th April 2023. The First Named Applicant had gone. All the windows were open. The Applicant said that he was really impressed by how clean the property was given how it had been the last time he had seen it. He thought that a lot of effort had been put in. There was however a strong smell of dogs. He closed the windows. Within ten minutes the smell was very strong. Prospective tenants viewed it on 13th April 2023. They were not interested because of the smell.

26. The Applicant said that he sent an email to the First Named Respondent on 13th April 2023 thanking her for leaving the property clean but advising that the smell was puting prospective tenants off. He also mentioned the missing vacuum cleaner. In a series of emails he told her that he could not show the property because of the smell.

27. On 19th April 2023 the applicant showed the property to Mr Omyekkluluje. He complained about the smell. He said that he would only rent the property if it was thoroughly cleaned, and the carpets and mattresses were replaced. The Applicant said that he would have refused to replace the carpets if if had not been for the smell. The carpets were commercial carpets and should have lasted for twenty years. They had only been down for about four or five years.

28. The Applicant obtained a quote for new carpets from Edinburgh Carpet and Flooring Warehouse Limited, dated 19th April 2023 in the amount of £834.81. He sent an email to the First Named Respondent on 20th April 2023. In the email he said that he was not prepared to have the property empty while the matter was resolved. He said that he had arranged for a contractor to replace the carpets on 24th April 2023 and that the cost to the First Named Respondent would be £1560 as long as the mattress did not need to be replaced. He did not give any breakdown of how he had arrived at that sum. He said that unless the First Named Respondent confirmed by 12 noon on 21st April 2023 that she would continue to pay rent and council tax and continue to pay rent until she had the work done herself and handed the property back in a lettable condition he would go ahead and get the work done and hold her liable for it. He also said that each time he had to make the twelve mile return trip to the house he would be charging £60.

29. The Applicant said that the First Named Respondent was not interested. He made reference to his legal submission where he stated that he had made an offer to the First Named Respondent to let her carry out the work herself or he would do it and hold her responsible, she had not refused the offer and was

therefore deemed to have accepted it and a contract was therefore in place. He said that on the basis that there was a contract he was not under any obligation to show that the figure if £1560 was reasonable and it was up to her to show that it was excessive. The Applicant mentioned that he had obtained a law degree thirty years ago and was applying the law of contract.

30. The Applicant said that he was under a duty to mitigate his loss. He knew that the First Named Respondent would not want to continue paying rent while matters were sorted out so he went ahead with the work.

31. The Applicant said that a cleaner needed to wash down everything in the property to get rid of the smell. He could not get the original cleaner to do it within his timeframe so he contacted John Cairns who had done work for him in the past. Mr Cairns wanted £600 but they agreed on £500. This was an oral agreement, Mr Cairns did not provide a breakdown or an invoice.

32. The Applicant said that he sent the First Named Respondent a breakdown of the costs by email on 24th May 2023. This was £1560 for replacing carpets and cleaning, including £225.19 for his own trips to the property, £130 for two second hand mattresses, £150 to dispose the old mattresses, £163 for a new Henry Hoover and £56 to replace the broken freezer drawer. This totalled £2059 and he was also seeking interest in accordance with the Additional Terms.

33. The Applicant was adamant that the mattresses required to be replaced and he said that the dogs had urinated on them and they were covered in hairs. He paid a man £150 to take the old ones away. He could not, as suggested by the First Named Respondent, ask for the Council to uplift them as he is a commercial organisation. He said the existing mattresses were three or four years old and he could not remember if they had been new or second hand when he got them. He referred to photographs 27, 31, 34, 35 and 36, which he said showed dog hairs and staining. He confirmed that he took the photographs himself and that they were taken around 23rd or 24th April 2023.

34. The Applicant said that he noticed that the freezer drawer was broken on 15th April 2023. He had nor mentioned it to the First Named Respondent in his email of 20th April 2023. He said that the First Named Respondent was difficult and uncooperative and he did not have time to give her a running commentary. He saw the drawer online at a price of £56 but when he tried to order it it was out of stock. He could not get one anywhere.

35. The Tribunal asked for clarity about when the new carpets were fitted. He said they were fitted on 24th April 2023 by a carpet fitter named Tony. He paid him around £350 in cash. The Applicant took the old carpets to his unit and later disposed of them. He confirmed that the cleaning was mainly done before the carpets were changed, but that Mr Cairns came back for a couple of days after that to complete the cleaning. He did not think anyone had washed the bare floorboards.

36. The Tribunal asked why the Applicant thought that the First Named Respondent would have any liability for rent after her notice period expired. He said that in a normal breach of contract situation the innocent party needs to be put in to the position he would have been in, this was contract law.

37. The Tribunal sought clarity on where the new carpets had been purchased from. The Applicant said that he bought them from Saughton Carpets.

38. The First Named Respondent was given the opportunity to ask the Applicant questions. She pointed out that the Applicant had sent her an email saying he was impressed by how clean the property was. He answered that it had not been in a lettable condition.

39. The Second Named Respondent was given the opportunity to ask the Applicant questions. He did not have any. He considered he had covered it all in the statement he had lodged with the Tribunal prior to the CMD.

Mr Omyekkluluje

40. The Applicant read the statement of the witness, dated 28th May 2023 to him, and he confirmed that it was accurate. He said that when he moved in to the property there were new carpets in the living room and in all three bedrooms. He said that the smell had gone. He would not have moved in with his pregnant wife if it had still been there. He moved in on 1st May 2023.

41. Mr Omyekkluluje was asked by the Tribunal if there had been a new Henry Hoover. He said that there was a brand new hoover. He confirmed that there was also another hoover and that it did work. He was asked if there was a new fridge freezer. He was asked if it worked and he said that one of the handles was broken. He said that when he viewed the property there had been an odour from the mattresses. Neither Respondent wished to ask him any questions.

42. The Tribunal found the witness to be credible and reliable.

John Cairns

43. Mr Cairns confirmed that he was a joiner by occupation. He said that when he went to the property it was smelly and there was dog hair everywhere. He did a lot of cleaning. He pulled out furniture and it was caked with dog hair. This included the reclining chair. He bleached all the surfaces including doors, laminate floors and radiators two or three times and took the curtains home and washed them. He spent a total of three days cleaning. He saw the broken drawer in the fridge freezer.

44. Mr Cairns said that between full and half days he spent a total of twenty four hours cleaning the property. He priced the job at £600 but the Applicant would only agree to £500, which he accepted. His hourly rate was usually around £20

but he gave one price for the whole job to the Applicant. He is not registered for VAT.

45. Mr Cairns was asked by the Tribunal about the condition of the mattresses. He said that they were not in a bad condition. There were some cobwebs around the bed frame and the whole thing needed a good hoover and the bedframes washed down.

46. The Tribunal found Mr Cairns to be a credible and reliable witness.

The First Named Applicant, Rowan Hamilton

47. The First Named Respondent said that prior to taking on the tenancy she had offered to get a pet bond, but the Applicant refused. She felt that she had left the property clean and she had been told by the Applicant that he was impressed by how clean it was. She felt that there was no dog smell when she left.

48. The First Named Respondent said that she did not ignore the Applicant after she vacated the property. She told him that she would be speaking to Citizen's Advice to seek advice about what she was responsible for, and as her tenancy did not end until 30th April 2023 she felt she had time to do that. He carried out the work before the tenancy came to an end. She asked the Applicant if they could use mediation but he refused.

49. The First Named Respondent referred to her photographs. She said that photo 11 showed a hole in the carpet when she took entry. She said that her mother took the photo the day she got the keys. She said that photo 12 showed the carpet the day they moved out and it was clean. Photo 14 showed one of the mattresses and there was no hair or urine stains. These phots were taken by her.

50. The First Named Respondent said that she had two dogs, an Alaskan malamute and medium crossbreed. The malamute weighed fifty kilograms and was not capable of getting up on a bed. Before she vacated all the carpets were hoovered. The property was clean and she had seen no need for the Applicant to get a cleaner in. She had already wiped down all the surfaces with specialist pet cleaners.

51. In relation to the Applicant's photos she said that she had not looked inside the radiators or inside the furniture. She had never been asked to do that for a rented property before.

52. The First Named Respondent said that she did not think that the mattresses had needed to be replaced, and in any event the charge for disposing of them was extortionate. There were cheaper means.

53. The First Named Respondent said that there was no hoover when the tenancy began. She brought her own Henry Hoover. She had proved a receipt as proof of purchase. Her mother brought a Dyson hoover when she came to clean at the start of the tenancy and it had been left in the property at the end.

54. The First Named Respondent said that she had never seen the Inventory or the Additional Terms. If she had seen them she would have expected to sign them. She was only ever given a copy of the signed pages.

55. The First Named Respondent said that the freezer drawer was intact when she left. She was not made aware of the issue by the Applicant until 8th May 2023. There was already a new tenant in occupation by then, and there had been a number of people in the property. Any of them could have broken it.

56. The Applicant asked the First Named Respondent if she was saying that he should not have done any work until the tenancy came to an end, and if so would she have been prepared to keep paying rent until he had done the work. She said that she had no liability to pay rent after the end of the tenancy and that there is often a turnaround period between tenants.

57. The Applicant asked the First Named Respondent if the hole in the carpet had stopped her moving in, She said it had not, but it was relevant to show that the carpet was already damaged and there was an element of wear and tear.

58. The First Named Respondent did not have the Applicant's photos to hand. She said she had seen them but could not see how there was justification for a £500 cleaning bill. She said that the dogs had never urinated nor defecated within the property. She said that the dogs did blow their coats and the hairs go in to the atmosphere. She said that she had not thought to clean inside the radiator.

59. The Applicant wished the Tribunal to view the video. It was confirmed with him that the purpose was to show that the freezer drawer was not broken at that time. As there was no dispute about this there was no need to view the video.

60. The Applicant asked the First Named Respondent why she had not telephoned the police if she thought he was trying to defraud her. She said it had never occurred to her to do so. She said that she had wished to use the mediation service through the Tenancy Deposit Scheme, but the Applicant had not taken a deposit.

61. At the end of this portion of the evidence the Applicant told the Tribunal that the new fridge freezer which he purchased because of the broken drawer had not been put in to the property, but had been put in to a property he had in Aberdeen.

Susan Hamilton

62. Mrs Hamilton is the First Named Respondent's mother. She said that she had assisted her daughter to clean the property prior to vacating. She said that once

it had been cleaned she did not detect a dog smell. She said that she is a landlord and she cleaned the property to the standard that she considered was required to re-let it.

63. Mrs Hamilton said that the carpets were difficult to clean. They were so thin that they did not have a pile and therefore the carpet shampooer could not get ant suction. The carpets were well worn, there was a hole and they had started to stretch and ripple. She thoroughly hoovered them, put pet specific products down and the re-hoovered. She washed all the cupboards and the things in them. She did not think that the freezer drawer was broken at that time. She did not think that the mattresses were in a bad condition but she said that she had been more involved in cleaning the kitchen and bathroom.

64. Mrs Hamilton said that when she had obtained the keys initially it did not look as if the property had had a professional clean, but it had been cleaned and it was not too bad. She said there had not been a hoover, she had had to bring her own.

65. When asked about the dog hair which could be seen in the Applicant's photos she said that she did not profess to be a professional cleaner and some bits did probably get missed. She said that there were two big dogs and it would have been impossible to eliminate all the hairs. She did not use professional equipment.

66. The Tribunal found the witness to be credible and reliable.

Kevin Hamilton

67. The Second Named Defender did not wish to give any evidence, he was happy for the Tribunal to look at his written statement.

Findings In Fact

i. The Applicant entered in to a lease of the property with the First Named Respondent and Daniel Clowes which commenced on 1st March 2021;
ii. The tenancy was a Private Rented Tenancy;
iii. The rent was £800 per month;
iv. The Applicant did not take a deposit but took a payment representing the last month's rent at the outset of the tenancy;
v. The Second Named Respondent signed the Tenancy Agreement as Guarantor to the extent of guaranteeing all payments of rent and any other payments due to the Applicant which the Tenants are required to pay under the Agreement;
vi. At the commencement of the tenancy the carpets thin and were four or five years old, with a hole in one of them;
vii. The Applicant agreed to allow the First Named Respondent to keep two dogs;
viii. The First Named Respondent and Daniel Clowes were out of the country at the commencement of the tenancy;

ix. The Applicant met with The First Named Respondent and Daniel Clowes on 28th March 2021 for the purposes of having them sign the tenancy agreement;
x. The Applicant only took the pages of the tenancy agreement that required details to be added to the meeting, not the whole agreement;
xi. The First Named Respondent gave notice to the Applicant on behalf of both tenants to terminate the tenancy as at 30th April 2023;
xii. The First Named Respondent said that she would need to clean the property before the Applicant could show it**;**
xiii. The First Named Respondent and her mother cleaned the property;
xiv. The carpets were difficult to clean as there was no pile;
xv. The First Named Respondent and her mother did not clean behind the radiators or inside the recliner chair;
xvi. The First Named Respondent confirmed around 11th April 2023 that the property was ready for viewing and that she was no longer living there;
xvii. The Applicant attended the property on 12th April 2023 and was impressed by the cleanliness but detected a strong smell of dog;
xviii. There were significant amounts of dog hair throughout the property including in the- back of the radiators, around the beds and in the reclining chair;
xix. Prospective tenants viewed the property on 13th April 2023 but were not interested because of the smell;
xx. Mr Omyekkluluje viewed the property on 19th April 2023 and said he would only rent it if the mattresses and carpets were replaced;
xxi. The Applicant obtained a quote from Edinburgh Carpet and Flooring Warehouse Limited, dated 19th April 2023 in the amount of £834.81;
xxii. The Applicant did not purchase those carpets from that retailer;
xxiii. The Applicant sent the First Named Respondent an email on 20th April 2023 offering a settlement;
xxiv. The First Named Respondent did not reply as she was awaiting an appointment with Citizen's Advice;
xxv. The Applicant proceeded to have Mr Cairns clean the property;
xxvi. Mr Cairns spent twenty four hours cleaning the property;
xxvii. Mr Cairns washed all the surfaces down with bleach several times;
xxviii. Some of the cleaning was done before the new carpets were laid and some was done afterwards;
xxix. Mr Cairns was paid £500 by the Applicant;
xxx. The carpets in the bedrooms and living rooms were replaced;
xxxi. The work was carried out prior to the end of the tenancy;
xxxii. Mr Omyekkluluje began his tenancy on 1st May 2023;
xxxiii. The new fridge freezer purchased by the Applicant was not installed in the property but was installed in another property in Aberdeen.

Reasons For Decision

68. The issue which the Tribunal had to decide upon was whether the Applicant had suffered loss, and to what extent were the Respondents liable.

69. The Second Named Respondent as Guarantor guarantees any payments due by the tenants in the event of default. As the First Named Respondent, the second tenant, Daniel Clowes, not having been brought as a party to the action, has not defaulted, it seems premature to grant any order against the Second Named Respondent.

70. The Tribunal accepted that the First Named Respondent was a credible and reliable witness.

71. The Tribunal did not accept that the Applicant's evidence was wholly credible and reliable. The Applicant at times was almost aggressive in his attitude. He treated the First Named Respondent as if she was on trial. He was evasive regarding the purchase of the new carpets and did not say until asked that he had not bought them from the supplier from whom he had received the quotation. He did not supply a receipt for them. He misled the Tribunal regarding the new fridge freezer. He implied that he had purchased it for the property but after the new tenant gave evidence to say that the fridge freezer he had in the property had a broken handle the Applicant told the Tribunal that the new fridge freezer had actually been taken to a property in Aberdeen.

72. The tenancy is a Private Residential Tenancy in terms of the Private Housing (Tenancies)(Scotland) Act 2016. The Applicant failed to provide a full copy of the tenancy agreement but he did confirm that the standard terms from the Model Agreement had been used.

73. Clause 25 of the Model Agreement is as follows:

25. Contents and Condition

The Tenant agrees that the signed Inventory and Record of Condition, [attached as Schedule 1 to this Agreement/ which will be supplied to the Tenant no later than the start date of the tenancy] is a full and accurate record of the contents and condition of the Let Property at the start date of the tenancy. The Tenant has a period of 7 days from the start date of the tenancy (set out above in the 'start date of the tenancy' section) to ensure that the Inventory and Record of Condition is correct and either 1) to tell the Landlord of any discrepancies in writing, after which the Inventory and Record of Condition will be amended as appropriate or 2) to take no action and, after the 7-day period has expired, the Tenant shall be deemed to be fully satisfied with the terms.

The Tenant agrees to replace or repair (or, at the option of the Landlord, to pay the reasonable cost of repairing or replacing) any of the contents which are destroyed, damaged, removed or lost during the tenancy, fair wear and tear excepted, where this was caused wilfully or negligently by the Tenant, anyone living with the Tenant or an invited visitor to the Let Property (see clause above on 'Reasonable care'). Items to be replaced by the Tenant will be replaced by items of equivalent value and quality.

74. This is the term of the contract which falls to be interpreted. Two points follow from this.

75. Firstly, the clause refers to a “signed Inventory”. The Inventory which the Applicant says forms part of the contract has not been signed by either party. The Tribunal are therefore not prepared to give any weight to it. The Applicant had a somewhat dismissive approach to providing the proper documentation to tenants, and to providing clear information about what exactly had been expended after the tenancy ended.

76. Secondly the tenant is bound to pay the reasonable cost of repairing or replacing items, fair wear and tear excepted. This does not entitled the Applicant to decide on a figure and expect the First Named Respondent to pay it without any form of breakdown. The Applicant is also not entitled to assume that the First Named Respondent had agreed to his figures just because she did not specifically reject them or take the keys back and do work herself.

77. Having heard the evidence it is for the Tribunal to decide what, if anything required repair or replacing, what was a reasonable cost, whether an element of fair wear and tear should be applied and if so what that element should be.

78. The Tribunal did accept that Applicant’s evidence that after the First Named Respondent vacated there was a significant amount of dog hair and that the property had a strong smell of dog. The Tribunal accepted that the First Named Respondent and her mother believed that there was no smell, but as dog owners they may not have been able to detect it. They were both clear that they had not cleaned behind the radiators or inside the reclining chair. They had never thought to do so and had not been asked to do so before. Given that the First Named Respondent said in evidence that the dogs blow their coats and the hairs go in to the atmosphere it is not unreasonable to have expected them to clean that bit more thoroughly and to expect that the property would have had a strong smell.

79. The Tribunal adjudicated on each element of the claim separately.

80. The Applicant claims £1560 to cover the cost of new carpets, cleaning and his trips to the property. The Tribunal accepted that the carpets did need replaced to assist with removing the dog smell. However, the Applicant did not provide any evidence of the cost of the replacement carpets. He provided a quote which he said he sought to rely upon. It came out in evidence that he had got the new carpets from a different supplier. He could therefore not rely on the quote as he had not purchased the carpets in accordance with that quote. In addition, the carpets were thin and one was already damaged. They were four or five years

old and therefore an element of fair wear and tear needed to be applied. In the absence of an invoice and applying an element of fair wear and tear the Tribunal considered that £300 was a reasonable figure.

81. The Tribunal accepted that the property had required additional cleaning in relation to the smell and the dog hair. However, it would have been more efficient if the carpets had been replaced before the cleaning was done. It does not seem equitable to charge for cleaning before and after, which perhaps duplicates work. Mr Cairns had not provided a detailed quote or invoice. In the event that a landlord wishes to recharge costs to a tenant he has to show that these are reasonable, and without itemisation that is difficult to do. The Tribunal considered that twelve hours of cleaning at the rate quoted by Mr Cairns of £20 per hour is reasonable, totalling £240.

82. The Tribunal did not accept any other part of the claim for £1560. The Applicant failed to provide any detail whatsoever to back it up.

83. Turning to the mattresses, initially the Applicant had thanked the First Named Respondent for cleaning the property well and only indicated that the problem was the smell of dogs and a missing Henry Hoover. There was no mention of any damage to the mattresses. In the Applicant's email to the First Named Respondent on 20 the April 2023 the Applicant did not appear to know if the mattresses needed to be replaced, although he did mention them. The issue of the need to replace the mattresses only arose once the prospective tenant had viewed the property and said he would only take the property if the carpets and mattresses were replaced. This was before the carpets were replaced or Mr Cairns had cleaned the property. The evidence from Mr Cairns said that the mattresses were not in a bad condition. There were some cobwebs around the bed frame and the whole thing needed a good hoover and the bedframes washed down. Mr Cairns said he did not know that the mattresses were to be replaced. The Tribunal accepted that although the dogs had left hairs and a smell, there was no evidence that the dogs had urinated or defecated in the property and there was no evidence that any stains on the mattresses were caused by the dogs. The Applicant did not remember if the mattresses were new or second hand at the start of the tenancy and as there is no evidence that the inventory was provided or signed by both parties at the start of the tenancy, there is no evidence about the condition of the mattresses at the start of the tenancy. The Tribunal did not consider that the mattresses required to replaced and therefore cannot make an award for the replacement cost or the cost of disposal.

84. With regard to the claim for a Henry Hoover the Tribunal decided that the Inventory, having not been signed, could not be considered. In any event the First Named Respondent did leave a hoover in the premises when she vacated.

85. With regard to the freezer drawer, the Tribunal accepted that this could have been broken after the First Named Respondent had vacated the property. In any event, the Applicant had provided no vouching for this item and he had not replaced it.

86. With regard to the interest claimed the Tribunal did not accept that the Additional Terms formed part of the contract. The Tribunal accepted the evidence of the First Named Respondent when she said that she had never seen the document. The Tribunal were of the view that if she had seen it she would have signed it to accept it. In any event, the Model Tenancy Agreement at clause 37 has a heading “Add Any Additional Tenancy Terms Here”. It was therefore envisaged when the legislation was enacted that the terms should all be in one document so that it was clear and easy for the tenant to see. The Applicant had chosen to ignore this.

87. The Tribunal decided to order the First Named Respondent to pay the Applicant £500, and to dismiss the case against the Second Named Respondent as the action against him is premature.
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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]

8th February 2024

Legal Member/Chair **Date**