



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/23/3057

Re: Property at 1/2 26 Kennedy Path, Townhead, Merchant City, G4 0PP (“the Property”)

Parties:

Miss Shria Kshatrapal Singh, 4/16 220 Wallace Street, Glasgow, G5 8AH (“the Applicant”)

R.S Estates UK Ltd, Mr Ifran Suleman, 17 Kennedy Path, Townhead, Merchant City, G4 0PP (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background
1. This is an application for an order for payment in relation to charges paid by the Applicant to the Respondent, purportedly in terms of her private residential tenancy at the Property. It called for a hearing at 10am on 16 May 2024, by teleconference. The Applicant was on the line in-person. The Respondent was not on the line or represented. The commencement of the hearing was delayed by 10 minutes to allow for any technical difficulty he may have been experiencing, but there remained no contact from it.

2. The Respondent had been represented at a case management discussion ('CMD'), where the matter was adjourned to this hearing. The date of the hearing had been communicated to it by the Tribunal administration. Further, a direction was made following the CMD, requiring the Respondent to provide written submissions on certain points and documentary evidence. No response was received in terms of that direction. The Tribunal was satisfied that the Respondent was aware of the hearing but had chosen not to attend and that it was therefore fair to proceed in his absence.

- Findings in Fact

The following facts the Applicant relied on were taken as proved by the Tribunal, there being no opposing evidence presented:

3. The Applicant let the Property from the Respondent under a private residential tenancy with a start date of 1 August 2022.
4. The tenancy agreement contained a term stating: "I/ We [the Applicant] assume responsibility for any and all community charges occurred for the duration of the tenancy. I.e. Council Tax, G.H.A.repair and maintenance bills for the upkeep of the close and building. Any Damage to windows, security intercom doors front and back cleaning etc." [sic].
5. Bills were sent by the Respondent to the Applicant, dated 28 October 2022, 23 January 2023, 15 April 2023 and 18 July 2023, all headed, "Common Repair Quarterly Charge G.H.A Lowther Factor Repair bill," and all purporting to relate to, "Factoring management fee, Building insurance, Stair lighting service, Stair cleaning service, Quarterly charge, Building maintenance, Cleansing service (Rubbish Uplift)."
6. The Applicant paid these bills in full as follows: £210.25 on 30 November 2022; £105 on 25 January 2023; £140.25 on 17 April 2023; and £189.25 on 20 July 2023; thus totalling £644.75.

7. None of the services listed on the bills had been provided or paid for by the Respondent.

- Reasons for Decision

8. The Tribunal had directed the Respondent (among other things) to submit vouching for the sums charged under the bills issued as described above. No response was made to that request. The Applicant's case was that the services in question were never provided and, on the basis of there having been no proof offered to the contrary, the Tribunal accepts that case.

9. The Respondent has wrongly charged the Applicant £644.75 for work which was not done in terms of the tenancy agreement. That money should be returned to her. An order to that effect should therefore be made.

- Decision

Order made for payment by the Respondent to the Applicant of the sum of SIX HUNDRED AND FORTY-FOUR POUNDS AND SEVENTY-FIVE PENCE STERLING (£644.75).

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/Chair

16/05/2024

Date