



**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**

**Chamber Ref: FTS/HPC/CV/23/3818**

**Re: Property at Ground Floor Right, 31 Ashvale Place, Aberdeen, AB10 6QD (“the Property”)**

**Parties:**

**Mr Gavin Reid, 15 Findhorn Drive, Ellon, Aberdeenshire, AB41 8AA (“the Applicant”)**

**Mr Nathan Skene, Rachel Campbell, 16 St Macher Gardens, Aberdeen, AB24 2AP; 16 St Macher Gardens, Aberdeen, AB24 2AP (“the Respondents”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £656.25.**

**Background**

1. By application dated 26 October 2023 the Applicant applied to the Tribunal for an order for payment by the Respondents in respect of a claim for rent and damage to property arising from the Respondents’ tenancy of the property. The Applicant submitted an estimate of costs of repairs, an outgoing inventory, photographs, an email from the Respondents, and a copy of the Private Residential Tenancy Agreement entered into by the parties.
2. Following further correspondence between the Applicant and the Tribunal administration the Applicant submitted further documentation and invoices and receipts together with an amended application and by Notice of Acceptance dated 11 December 2023 a legal member of the Tribunal with delegated powers

accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 29 January 2024.
4. A CMD was held by teleconference on 14 March 2024 and was attended by both parties. The Respondents accepted that they were liable to meet the rent claimed by the Applicant in the sum of £455.00 together with the cost of replacing the bathroom artwork at a cost of £5.99 and the living room rug at a cost of £25.99 but disputed that they were due to meet the remaining costs claimed by the Applicant. The Respondents claimed these were due to fair wear and tear or in the case of the cost of carrying out pest control and cleaning the carpet it had been agreed these would be met by the Applicant. The Respondents also claimed they should not be held liable for the accidental damage to the bathroom sink and cupboard. As the facts were disputed the Tribunal adjourned the proceedings to a hearing.
5. Intimation of the hearing was sent to the parties by emails dated 11 June 2024.

### **The Hearing**

6. A hearing was held by teleconference on 11 July 2024. The Applicant attended in person. The Respondents did not attend nor were they represented. The Tribunal being satisfied that the Respondents had received proper intimation of the proceedings determined to proceed in their absence.
7. By way of a preliminary matter the Tribunal ascertained from the Applicant that the Respondents’ deposit which had been held by Safe Deposits Scotland had not been adjudicated upon by the Deposit Scheme but had been returned to the Applicant unopposed by the Respondents in respect of a claim for damage to the property and not for outstanding rent.
8. The Applicant explained that following a call from Mr Skene’s mother regarding an insect infestation at the property he had agreed to instruct pesticide work at his own expense but that this had involved the Respondents temporarily moving out of the property. After they had moved out the Applicant said he received a text message to say the Respondents were not returning. It was then agreed they would pay one month’s rent in lieu of giving notice. The Applicant went on to say he had changed his mind about meeting the cost of the pesticide work after realising the scale of the cleaning of the property that was required. He said the Respondents had not kept the property clean and blamed the infestation of Dermestids Beetle on the Respondents living conditions. The Applicant went on to say that after the pesticide treatment had been done the carpets could not be cleaned for a period of five weeks. He also said there had been multiple stains on the carpets.
9. The Applicant confirmed that the bathroom sink had been in good condition at the commencement of the tenancy without any cracks. He explained that the

sink had not been broken when the Respondent Mr Skene had fallen and broken the under-sink cupboard but had been broken at a much earlier stage in the tenancy when a perfume pot had fallen on it. The Applicant also explained that he had to replace the bathroom taps as they did not align with the holes in the new sink.

10. The Applicant accepted that he did not have a receipt for the carpet cleaning and was prepared to drop that part of his claim.
11. The Applicant said that he had replaced the curtains in the bedroom and living room due to them being damaged and smelling of smoke due to the Respondents smoking in the property in breach of the tenancy agreement. The Tribunal noted that the Respondent Mr Skene said that he had gone outside to smoke and the Applicant submitted that this was not consistent with the Respondent also saying that as a result of his illness he could not leave the property. The Applicant also referred to the smell in the property and the yellowing of the wallpaper being consistent with smoking taking place. The Tribunal noted that the curtains had been new at the commencement of the tenancy and also that in the past the Applicant had replaced them after about three years. The Tribunal was advised by the Applicant that he had tried washing the curtains before replacing them but they had still appeared yellow and smelled of smoke and had to be replaced.
12. The Applicant accepted that the broken door hook and toilet seat could have been due to wear and tear and dropped his claim for reimbursement for these items and also for the cost of replacing the extractor fan filter in the kitchen at a cost of £1.69, £11.99 and £11.99 respectively.
13. The Applicant maintained that he had to replace the wallpaper in the living room due to the damage caused by the Respondents smoking in the property in breach of the tenancy agreement.
14. The Applicant explained that the rack for inserting in the grill pan which had been in the property was missing at the end of the tenancy and had been replaced at a cost of £13.69.
15. The Tribunal noted from the documents submitted the various receipts for the work carried out and items replaced and advised the Applicant that as it was accepted by the Respondents that some sums were due by them it would issue a decision and order once it had considered the parties submissions.

### **Findings in Fact**

16. The parties entered into a Private Residential Tenancy that commenced on 7 December 2020 at a rent of £455.00 per calendar month.
17. At the end of the tenancy the Respondents owed rent of £455.00.

18. The Respondents' deposit of £250.00 was returned to the Applicant by Safe Deposits Scotland unopposed by the Respondents in respect of damage to the property.
19. The property became infested by Dermestids Beetle during the tenancy.
20. The Applicant incurred a cost of £283.00 for pesticide control at the property.
21. The sink in the bathroom was in good condition at the commencement of the tenancy and was accidentally broken by the Respondents during the tenancy.
22. The under-sink cupboard was accidentally damaged by the First Respondent when he fell in the bathroom.
23. The sink and taps in the bathroom were replaced at a cost of £270.00.
24. The under-sink cupboard was replaced at a cost of £29.98.
25. The Applicant replaced the curtains and tie backs in the bedroom and living room at a total cost of £109.00.
26. The Applicant tried to wash the curtains before replacing them.
27. The curtains were almost three years old at the time they were replaced.
28. The Applicant replaced the wallpaper in the living room at a cost of £51.00
29. The property showed signs that cigarette smoking had taken place in breach of the terms of the tenancy agreement.
30. The Applicant replaced a grill pan rack at a cost of £13.79.

### **Reasons for Decision**

31. It was a matter of agreement between the parties at the CMD that the tenancy commenced on 7 December 2020 and that the rent was £455.00 per month. It was also conceded by the Respondents at that time that they were liable for the outstanding rent of £455.00, the bathroom artwork of £5.99 and the living room rug of £25.99.
32. The Tribunal was not satisfied that the Applicant had provided sufficient evidence to support his claim that the infestation of Dermestids beetle was as a result of the Respondents failure to keep the property clean. The Applicant provided no documentary evidence such as an expert report to that effect. Furthermore, the Applicant had previously agreed to meet the cost of the pest control works and only changed his mind after he was not satisfied with the condition the property was in at the end of the tenancy. In these circumstances

the Tribunal was not satisfied that the Respondents should meet this part of the Applicant's claim and it is refused.

33. The Respondents accepted that they accidentally damaged the bathroom sink and cupboard but attempted to argue that they should not be liable for the cost of replacement as the damage was attributable to the First Respondent's medical condition.
34. The Tribunal does not accept this to be the case. The Respondents did not attend the hearing. They did not submit any medical evidence and in any event the Tribunal can see no reason why the Respondents should not meet the cost of the repairs. The Tribunal was satisfied from the Applicant's evidence that the sink was in good condition at the commencement of the tenancy and was damaged at an early stage by an object being dropped on it by one of the Respondents and that the cupboard was damaged when the First Respondent fell and broke it. The Tribunal accepts that the taps had to be replaced as the original taps were not compatible with the new sink.
35. The Tribunal was satisfied that the curtains and wallpaper in the property had been affected as result of cigarette smoking taking place in the property in breach of Clause 35 of the Tenancy Agreement. The Tribunal also accepts that although the Applicant attempted to wash the curtains this proved to be insufficient and they did need to be replaced. However, there would be an element of betterment involved given that the curtains were almost three years old and indeed in his evidence the Applicant said that he had previously replaced the curtains in the property after three years. From the information provided the Tribunal accepts that the curtains would not have required to have been replaced were it not for the smoke damage for a further period of time and allowing for wear and tear allows one half of the total cost of replacing the curtains in the bedroom and living room namely £54.50. The Tribunal accepts that the full cost of replacing the wallpaper should be met by the Respondents as this would not have been necessary but for the damage caused by smoking in the property.
36. The Tribunal was satisfied from the Applicant's evidence that the grill pan rack was present at the commencement of the tenancy and missing at the end of the tenancy and it is therefore reasonable that the Applicant is reimbursed for the cost of replacement.
37. The Tribunal noted that the Applicant was not insisting in his claims for the broken door hook and toilet seat and replacement fan filter paper.
38. After carefully considering the written representations and documents and the parties' oral submissions at the CMD and the Applicant's oral submissions at the hearing the Tribunal found the Applicant entitled to payment for:

Bathroom sink and taps	£270.00
Bathroom storage cupboard	29.98
Replacement curtains and tiebacks	54.50

Bathroom artwork	5.99
Livingroom rug	25.99
Wallpaper	51.00
Oven Rack	13.79
Rent	<u>455.00</u>
Total	£906.25
Less Deposit recovered	<u>250.00</u>
Total amount awarded	<u>£656.25</u>

### **Decision**

39. The Tribunal finds the Applicant entitled to an order for payment by the Respondents to the Applicant in the sum of £656.25.

### **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.

# G Harding

**Graham Harding**  
Legal Member/Chair

**11 July 2024**  
Date