

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 (“the Act”) and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/CV/22/2070

Re: Property at 32 Newhouse Road, Toryglen, Glasgow, G42 0EB (“the Property”)

Parties:

Mrs. Naseem Ali, residing at 26, Kingfisher Avenue, Hamilton, ML3 7GF (“the Applicant”) per her agent, Mr. Barry Munro of GBS Lets, 82, Union Street, Larkhall (“the Applicant’s Agents”)

Mr. Nadeem Iqbal and Mrs. Sobia Iqbal, both residing at 10 Dirleton Avenue, Cambuslang, Glasgow, G72 8ZB (“Mr. and Mrs. Iqbal”)

Tribunal Members:

Karen Moore (Legal Member) and Gordon Laurie (Ordinary Member)

Decision of the Tribunal.

The Tribunal determined that the Application has not been proved and so refused the Application.

Procedural background

1. By application received between 27 June 2022 and 20 November 2022 (“the Application”), the Applicant’s Agent, on her behalf, applied to the Tribunal for a payment order for rent arrears and damages arising from private residential tenancy agreement between the Parties. The Application itemised damage caused to the Property amounting to £10,992.00 together with rent of £675.00 unpaid at the end of the tenancy. The Application comprised a copy of a private residential tenancy agreement between the Parties, photos of the Property at the beginning of the tenancy, invoices and receipted invoices for works to the Property, evidence of the condition of the Property at the end of the tenancy, evidence of eviction proceedings between the Parties with a Notice to Leave showing an effective date of 13 August 2021, evidence of civil proceeding between the Parties and a rent statement showing £13,875.00 due as at 25 December 2021.

2. The Application was accepted by the Tribunal and a Case Management Discussion (the "CMD") was fixed for 10 March 2023 by telephone conference. Shortly prior to the CMD, the first-named Respondent requested that the CMD be postponed due to ill-health. The Applicant's Agent advised that the Applicant opposed the postponement as she and her husband had taken time off work to attend. As there was insufficient time to contact Mr. and Mrs. Iqbal, the Tribunal decided to proceed with the CMD and consider the postponement request at the CMD.
3. The CMD took place on 10 March 2023 by telephone conference call. The Applicant and her husband as a supporter were present. The Applicant was represented by Mr. Munro. Mr. and Mrs. Iqbal were not present and not represented.
4. The Tribunal having considered the Respondent's request to postpone the CMD and the Applicant's opposition to it, and taking account of the fact that the first-named Respondent, in his email to the Tribunal, had stated that the sum sought in the Application "is incorrect" and that he wished the opportunity to explain himself, adjourned the CMD to a Hearing of evidence.
5. The Tribunal issued a Direction to Mr. and Mrs. Iqbal requiring them to provide written explanation(s) detailing their opposition to the Application and to the sum sought, to provide photographic or documentary evidence in support of the said written explanation(s) and required the second-named Respondent to authorise the first-named Respondent to act on her behalf. The second-named Respondent provided written authority. Mr. and Mrs. Iqbal did not comply with the remainder of the Direction.
6. The Applicant submitted a video of the Property which was made available to Mr. and Mrs. Iqbal and the Tribunal prior to the Hearing. The video is of the inside of the Property and showed it be in poor condition with regard to tidiness with clothes, and household items strewn around, the kitchen was untidy and in a poor condition, there was a WC without a seat and tiling appeared to have become unfixed.
7. A Hearing of evidence took place on 8 June 2023 at 10.00 by telephone conference call. The Applicant was present and unrepresented. Mr. and Mrs. Iqbal were present and unrepresented. The Parties agreed that they had viewed the video evidence.
8. The Tribunal heard from the Applicant and her first witness, Mr Barry Munro of GBS Lets. The evidence continued until the early afternoon. The Applicant's second witness, Mr. Z. Inwar, was not able to give evidence as he was unavailable in the afternoon. Accordingly, the Tribunal adjourned the Hearing to a later date.
9. Adjourned Hearings were fixed for 1 September 2023, 9 November 2023 and 27 February 2024 and all were adjourned further. The final adjourned Hearing was held on 21 June 2024 by telephone conference. The Applicant was present and unrepresented. Her husband attended as a Supporter. Mr. and Mrs. Iqbal were present and unrepresented.

Hearing on 8 June 2023

Evidence for the Applicant.

Applicant, Mrs. Ali – evidence in chief.

10. Mrs. Ali gave evidence on her own behalf. She explained that she had inherited the Property from her father in 2017 and had borrowed funds from her family to secure her ownership of the Property. She retained the Property as a rental property as it was her late father's wish that the Property should not be sold and the rental income covered repayment of her family loans. She engaged Mr. Zubair Inwar as a letting agent and left all matters regarding the tenancies to him. She had tenants in the Property before Mr. and Mrs. Iqbal, and Mr. Inwar had attended to repairs when they vacated the Property. She had not visited the Property during the tenancies and visited a few days after Mr. and Mrs. Iqbal left. She stated that she has since instructed Mr. Munro as letting agent.
11. With regard to the condition of the Property, Mrs. Ali stated that, when she visited the Property after Mr. and Mrs. Iqbal left, she was devastated and heartbroken as it was in a very poor condition. She said that there were leaks everywhere from the ceilings onto flooring and that the toilet seat was broken. There was damage to the windows and throughout the house, to the extent that everything had to be renewed. She was aware that Mr. Inwar had taken photographs and a video of the damage caused a few days later as she had asked him to arrange for someone to sort out the Property.
12. With regard to particular issues, Mrs. Ali stated that the bathroom tiles were broken, the toilet seat in the en suite was broken and the bath was in a bad condition. It was all damaged and all had to be replaced. She stated that the kitchen was in a poor state with a leak from the ceiling, a new boiler had been damaged, the worktops were damaged from water from the leak, the cooker was burnt out and some cabinet doors were missing and handles had been broken off. Mrs. Ali stated further that all of the windows had been damaged, with the living room windows being the worst. She stated that Mr. Inwar had the full list. She recalled that the Property needed to be fully redecorated and that there had been damage to the carpets and doors. It had been some time ago and so was difficult to remember everything. She recalled that she had paid £1,700.00 for new radiators herself.
13. In answer to questions from the Tribunal, Mrs. Ali confirmed that it was Mr. Inwar who arranged the tradesmen, although Mr. Munro had attended at the Property, too, and may have taken photographs. She stated that she was happy to have Mr. Inwar arrange the work as his office was nearer to the Property and so it was easier for him to do this. She did not know if a landlord's insurance policy had been in place as she left everything to Mr. Inwar to deal with. She confirmed that it was her choice to replace the radiators.

Applicant, Mrs. Ali – evidence in cross- examination

14. Mr. Iqbal for Mr. and Mrs. Iqbal stated that there had been a lot of exaggeration and that a family could not have lived in a house as bad as Mrs. Ali claimed. With regard to particular issues, he disputed with Mrs. Ali the extent of the damage, stated that the

tiles had not been broken and that she had not produced any evidence of damage and pointed out that the video only showed one shot of a door. Mrs. Ali was firm that the damage had been caused. Mr. Iqbal asked if Mrs. Ali had visited the Property during the tenancy and she agreed that she had not and had not visited it beforehand.

Mr Munro – evidence in chief.

15. Mr. Munro explained that he looked after several properties owned by Mrs. Ali's family and had acted for Mrs. Ali to arrange the eviction of Mr. and Mrs. Iqbal and recover rent arrears. He found out about the damages after Mr. and Mrs. Iqbal had left the Property. With regard to the claim as set out in the Application, he explained that he made the list of damages from the invoices. He stated that he had looked at this initially to assess the state of repair to rent the Property out again. He confirmed that there were invoices, all receipted, from Safe Heating and Plumbing for £4,700.00 for bathroom renovation of the main bathroom, the en suite and the cloakroom including the sanitary fittings in full, wall panels, and towel rails, Moderns for £2,100.00 for 14 doors and 8 drawers, worktops, handles, kickplates and trims, AL Scrubz for £180.00 for a full deep clean of the kitchen, C.R. Smith for 4 sets of hinges, 2 handles and realignment of the double glazed units throughout and handles and AP Certs Ltd., for £3,195.00 for paint to all walls, doors, bathroom, en suite and WC with anti-mould, fixing leak to bathroom toilet, installing 6 new pendant lights and 9 new LED bulbs, topping up electricity and gas.
16. With regard to the condition of the Property, Mr. Munro stated that he thought there had been neglect, and, damage caused by neglect, as things had not been maintained. He said that if the leak to the ceiling had been repaired it would have minimised the damage. His view was that the condition was beyond reasonable wear and tear and that work had to be done to bring up the Property up to a state of repair for rent.
17. With regard to particular issues, Mr. Munro stated that the bathroom tiles were missing and a match could not be found. The grout could not be cleaned. The WC basin and pedestal were broken. Radiator valves were amiss or broken and a few radiators had been discoloured from jeans being dried on them and some were loose with the weight of wet clothing pulling them off the wall. He stated that the kitchen was in a worse condition as outlined in the Application, that there had to be a deep clean, that the windows hinges required replacement and had to be realigned and that a full decoration of the Property was needed. He stressed that from knowing Mrs. Ali's late father and condition of his properties, it was sad that the Property had been left in that condition.
18. In answer to questions from the Tribunal, with regard to the rent, he confirmed that a payment order for rent for £13,150.00 has been granted and that the Application is for the balance of the rent. He stated that rent is due to 25 December 2021, when the tenancy ended. He stated that even though the video was taken on 2 December 2021 and Mr. and Mrs. Iqbal had left before that date, rent was still due to the end of the notice period.
19. Mr. Munro confirmed that it was Mrs. Ali and Mr. Inwar who agreed the costing and budget for the works. He stated that the photographs lodged with the Application were

provided by Mr. Inwar to show that the Property was in good condition at the start of the tenancy, He estimated the Property to be around 15 years old. He accepted that grout would discolour after 15 years, but believed that the condition was beyond wear and tear as no time and effort had been made to keep it clean and it had become too difficult to re-clean. Mr. Munro did not know if an inventory had been taken at the start of the tenancy. He was certain that tiles, if not broken, were leaning forward and that renewal was necessary. He stated that the full water damage and the broken basin and broken WC could not be seen fully in the video. He was aware that Mrs Ali had replaced the radiators. He stated that the kitchen had a few missing drawer fronts and that it all required to be re-wrapped. Mr. Munro stated that the rent at the time was low at £675.00 and that the rent should now be £1200 but the Property needed to be of a high standard.

Mr Munro – evidence in cross-examination.

20. In response to questions from Mr. Iqbal, Mr. Munro stated that he did not know if Mr. and Mrs. Iqbal had been the first tenants in the Property. He did not know exactly when the photographs had been taken and did not know if regular property inspections had taken place.
21. Mr. Munro stated that he had inspected the Property when it was empty and had seen damage to the tiles. He disputed that the damages had been exaggerated. He was definite that there had been cracked tiles but did not recall a splashback. He did not know why only one short video had been taken as this was up to Mr. Inwar. He did not think that there was significant gap between the day the video was taken on 2 December 2021 and the repairs taking place in January 2022.
22. Mr. Munro was not aware if Mr. and Mrs. Iqbal had reported the ceiling leak to Mr. Inwar and if Mr. Inwar had said the repairs were not the landlord's responsibility.
23. Mr. Munro was certain that he saw a cracked mirror in the bathroom but, on reflection, was not entirely sure. Mr. Munro was certain that the kitchen had been damaged and that there was a common theme of neglect. He could not say which radiators were damaged by clothes drying or if the radiators had been rusty at that tenancy start. He did not know why there was video of only one of the windows and that this was enough evidence.
24. Mr. Munro did not accept that the mess in the Property had been created by or on behalf of the Applicant to make Mr. and Mrs. Iqbal look bad. He did not know if the damage would be covered by an insurance policy.
25. In response to a follow up question from the Tribunal, Mr. Munro stated that he first visited the Property a day or so after 2 December 2021 on his way home from work. He did not know if the Applicant or her late father had replaced the kitchen. He stated that an old kitchen is not necessarily in bad condition but may affect the rent and is more of an indicator as to how much rent can be charged.

Adjourned Hearing on 21 June 2024

26. Mr. Iqbal for the Respondents advised that Tribunal that his daughter was unwell and that he would have to take her for medical treatment when the Hearing was finished.
27. The Applicant, Mrs. Ali, advised that her second witness, Mr. Inwar, was not present and she did not know if he could attend. She offered to telephone him to find out if he was available. The Tribunal advised that the onus was on her as Applicant to make sure that her witness had been notified of the Hearing and to ensure his attendance. Mrs. Ali stated that she would proceed without Mr. Inwar and had no more evidence to present.

**Evidence for Mr. and Mrs. Iqbal
Respondent, Mr. Iqbal– evidence in chief.**

28. Mr. Iqbal gave evidence on behalf of his wife and himself, having his wife's authority to do so. He stated that a lot of things had been made up by or for the Applicant. He did not know her name until the proceedings began as he dealt with Mr. Inwar. He stated that the video was short but the extent of alleged damage was huge and that there was no real detail of it. He thought that this was a tactic to get his wife and himself to pay for more work that they were liable to pay for as it seemed only a tile was missing. He pointed out that there was no evidence of the condition of the Property at the start of the tenancy and that the kitchen was of average condition and had been left in a similar condition. He did not accept that a deep clean was needed as the Property had been cleaned. He suggested that Mr. Inwar had created the mess in the Property to discredit his wife and himself.
29. Mr. Iqbal stated that he had complained to Mr. Inwar about the windows as they were not in the best condition but nothing was done. He stated that he reported other repairs but nothing was done and that any neglect was by Mr. Inwar. He stated that there could not be gas and electricity arrears as his wife and he had a pre-paid meter and so could not have arrears. He explained that the Property was in an average condition when he took up the tenancy and he took it because he had been in a rush to find somewhere suitable for his family of three children and his mother. He maintained that there is no evidence of damage caused and that Mr. Inwar was not present as he would be exposed for exaggerating it all. With regard to the rent arrears of £675.00, he accepted that this might be due.
30. In response to questions from the Tribunal, Mr. Iqbal could not recall if there were missing tiles or a missing WC seat, but if so, he would meet the cost. He stated that he had reported an issue with the toilet to Mr. Inwar but always being ignored and neglected. Mr. Iqbal stated that he had reported that the oven did not work on the first day of the tenancy and that it was never fixed. He maintained that the Property had not been left untidy and that a lot of stuff left had been brought in to make Mr. and Mrs. Iqbal look bad. He could not recall being given an inventory and condition report with tenancy agreement, even though the tenancy agreement mentions this.

Mr. Iqbal– evidence in cross-examination.

31. In response to questions from Mrs. Ali, Mr. Iqbal disagreed that Mr. Inwar had carried out the repairs which had been reported. He did not accept that the Property had been

in a really good condition at the start of the tenancy and did not know that it had been upgraded after the previous tenants had left. Mr. Iqbal disputed that there had been reminders for outstanding gas and electricity charges as these services were pre-paid. He disputed that he Mr. Inwar had been refused access to inspect the Property and stated that Mr. Inwar come round regularly, adding that if there had been damage, Mr. Inwar could have photographed it. Mr. Iqbal disputed that he had left the Property without notice and stated that he had agreed with Mr. Inwar to post the keys to him. He denied having left the Property in a mess with a lot of clothes and other items lying around. He disputed that the video shows damage to the Property. He explained that he did not take photographs when he left the Property as it was in the same condition at the start of the tenancy and he thought that there was no need. He stated that mess is not damage and that it had been put in the Property to make it look worse. With regard to the rent, he stated that he paid Mr. Inwar in cash and thought that he had paid the final month, but it was at a time when his daughter was in hospital so he might not have done so.

Supplementary Question to the Applicant.

32. In response to a follow up question from the Tribunal, Mrs. Ali, advised that she relied on Mr. Inwar and that he had told her that, when he visited the Property, he had access issues. She stated that Mr. Inwar had had a chat with her about people coming and going from the Property and that Mr. Iqbal not was not co-operative. She stated that when Mr. Inwar told of her repairs she instructed him to get them done but he could not get access to do so. She considered Mr. Inwar to be a good agent and very attentive but that he found Mr. Iqbal to be difficult.

Applicant's Summing –up

33. Mrs. Ali, summed up by saying that all of the damage as witnessed by Mr. Inwar, Mr. Munro, all of her family and herself which had been videoed by Mr. Inwar had been caused by Mr. and Mrs. Iqbal who had left the Property in a poor condition and in a bad state. She stated that Mr. and Mrs. Iqbal had left without giving notice and that the whole matter had caused stress for her husband and herself.

Respondents' Summing –up

34. Mr. Iqbal summed up by stating that it seemed that the previous tenant had left things in a bad state and it had not been fixed. He said that there was a lack of evidence and detail of damage. Mr. Iqbal stated that he has had a bad experience with Mr. Inwar who had neglected his wife and himself. He stated that it was telling that Mr. Inwar had not attended the Hearing.

Findings in Fact

35. The Tribunal made the following findings in fact:-

- i) There had been a private residential tenancy (PRT) between the Parties at a monthly rent of £725.00;
- ii) The PRT began on 25 July 2018;
- iii) The PRT agreement was drawn up by Mr. Zubair Inwar of Inwar Lets on behalf of Mrs. Ali;

- iv) The letting agency arrangement between Mrs. Ali and Mr. Inwar was a full management agency agreement;
- v) Mr. Inwar carried out property inspections during the tenancy;
- vi) Mr. and Mrs. Iqbal accrued rent arrears;
- vii) Eviction proceedings and civil proceedings were raised against Mr. and Mrs. Iqbal;
- viii) As at 25 November 2021, rent arrears of £13,150.00 were due and owing;
- ix) Mrs. Ali has a payment order for £13,150.00;
- x) Mr. and Mrs. Iqbal vacated the Property in or around the end of November 2021;
- xi) Mr. Iqbal returned the keys to the Property to Mr. Inwar by depositing them through the letter box of his office;
- xii) Mr. Inwar visited the Property on or around the end of November /beginning of December 2021;
- xiii) Mrs. Ali and Mr. Munro of GBS Lets visited the Property a few days after Mr. Inwar;
- xiv) Mrs. Ali and Mr. Munro found the Property to be in a poor condition;
- xv) Mr. Inwar took a video of the Property on a visit to the Property on 2 December 2021;
- xvi) The video shows the Property to be very untidy with clothes and family belongings strewn around, a missing toilet seat, loose tiling and the kitchen in a poor condition;
- xvii) Work was carried out at the Property as detailed in the invoices lodged with the Application.

Tribunal's assessment of the evidence.

36. The Tribunal considered that all those who gave evidence did so truthfully, in the main, and to the best of their ability. The Tribunal had no doubt that the Property was left in a poor condition in respect to tidiness and, possibly, cleanliness and that there had been minor damage caused to parts of the Property in respect of fittings and fixtures as shown in the video.
37. The Tribunal accepted that Mrs. Ali had been upset at the condition of the Property and could speak to its untidy and mess state. The Tribunal accepted that Mrs. Ali noted a leak in the kitchen ceiling, the broken toilet seat en-suite and the condition of the bath and that she had noted water damage in the kitchen from the leak in the ceiling and the further damage. However, by her own admission. Mrs. Ali had not viewed the Property at the start of the tenancy and so did not know its condition at that date. She had not visited the Property during the tenancy and had relied on Mr. Inwar. Although she had instructed Mr. Inwar to carry out repairs, she did not know if he had done so. She did not know if the leak from the ceiling which caused damage to the kitchen was a repair for which she, as landlord, was responsible. Mrs. Ali delegated all of the instruction of works to Mr. Inwar and had no direct involvement in the extent of the works instructed and carried out. Mrs. Ali could only speak to the condition of the Property after the tenancy ended.
38. Likewise, the Tribunal accepted that Mr. Munro had seen the condition of the Property and could speak to its untidy and messy state. Like Mrs. Ali, he had no knowledge of the Property before or during the tenancy and could only speak to the condition of the Property after the tenancy ended. Mr. Munro's view was that the condition of the Property was "beyond wear and tear" but Mr. Munro had no direct knowledge or evidence of wear and tear which might have occurred before the start of the tenancy

or of the condition of any of the fittings and fixtures at the start of the tenancy. He did not know if repairs had been reported by Mr. and Mrs. Iqbal and not carried out by or on behalf of Mrs. Ali. He did not know if the leak from the ceiling which caused damage to the kitchen was a repair for which Mrs. Ali, as landlord, was responsible. Mr. Munro's evidence was in respect of repairs and work required to bring the Property up to a rentable standard in the current market and that at a rent higher than the rent payable by Mr. and Mrs. Iqbal.

39. Neither Mrs. Ali nor Mr. Munro spoke of wilful damage, fault or negligence on the part of Mr. and Mrs. Iqbal.
40. The Tribunal found Mr. Iqbal to be credible and truthful with regard to his dealings with Mr. Inwar and accepted that Mr. Inwar had carried out regular inspections of the Property and had been able to gain access. The Tribunal accepted that Mr. Iqbal had reported repairs and had reported the leak in the kitchen ceiling and that these repairs had not been carried out. The Tribunal did not accept that Mr. Inwar or Mrs. Ali had deliberately entered the Property after his family had left to leave a mess of clothing and household items solely to discredit Mr Iqbal and his family.
41. The Tribunal had regard to the invoices lodged with the Application and spoken to by Mr. Munro.
 - a) The invoice from AP Certs Ltd., for £3,195.00 is dated 13 January 2022 and is for paint to all walls and doors including the bathroom, en suite and WC which were treated with an anti mould coating. This invoice also specifies fixing a leak to bathroom toilet, installing 6 new pendant lights and 9 new LED bulbs and topping up electricity and gas meters. There was no evidence to show that full redecoration was required because of lack of reasonable care or damage caused by Mr. and Mrs. Iqbal. There was no evidence that new lights and bulbs were required and no evidence that it was Mr. and Mrs. Iqbal' obligation to fix leaks, apply an anti-fungal treatment or to supply energy for the Applicant's tradesmen.
 - b) The C.R. Smith invoice is dated 26 January 2022 for 4 sets of hinges, 2 handles and realignment of the double glazed units throughout the Property. There was no evidence that the extent of this this work was required because of lack of reasonable care or damage by Mr. and Mrs. Iqbal.
 - c) The invoice from AL Scrubz for £180.00 for a full deep clean of the kitchen is dated 31 January 2022. There is evidence that the kitchen was in a poor condition but no evidence to what extent this was caused by the leak from the ceiling.
 - d) The invoice from Modernz for £2,100.00 is not dated, but presumably, it postdates the AL Scrubz invoice. There was no evidence to show that the full extent of the works carried out by Modernz was required because of lack of reasonable care or damage caused by Mr. and Mrs. Iqbal.
 - e) The invoice from Safe Heating and Plumbing for £4,700.00 is dated 13 May 2022, some considerable time after the end of the tenancy, and is for bathroom renovation of the main bathroom, the en suite and the cloakroom. It covered a full replacement of all the sanitary fittings, wall coverings and accessories. No evidence was led to show that a full renovation was required because of lack of reasonable care or damage by Mr. and Mrs. Iqbal. The invoice also covers the

supply and fit of “all new radiators and valves” but there was no evidence that all the radiators and valves in the Property required to be replaced because of lack of reasonable care or damage by Mr. and Mrs. Iqbal. Further the Safe Heating and Plumbing invoice duplicates elements specified and invoiced in the AP Certs Ltd’s invoice.

42. Taken together, the invoices showed that work was carried out to both refresh and upgrade the Property. Accordingly, the Tribunal found that the invoices did not assist in proving the Application.

Reasons for the Decision.

43. The Tribunal’s decision is based on its findings in fact and its assessment of the Application and the supporting information, the video evidence and the evidence at the Hearing and adjourned Hearing. The test of proof in civil proceedings is the balance of probabilities and this is the test which the Tribunal applied.
44. The Tribunal noted that, in terms of Clause 11 of the tenancy agreement, the obligation on Mr. and Mrs. Iqbal is “to take reasonable care of the Let Property” and the obligation in terms of Clause 12 is to “be liable for the cost of repairs where the need for them is attributable to....fault or negligence.” These are extent of the obligations which fall on Mr. and Mrs. Iqbal.
45. The Application states that the reason for making it is *“the property had to be emptied of rubbish which was left behind and cleaned throughout. There was wilful damage and damage which resulted from neglect. The property required decoration throughout, extensive repairs to the kitchen and bathrooms, new flooring, new light fittings and damage to the windows. The kitchen was badly damaged resulting in new door and drawer fronts being required, however, the style was discontinued therefore plain doors were installed and the kitchen fronts had to be wrapped in vinyl to match”*. This is the claim which Mrs. Ali offered to prove. The extent of the claim goes beyond the scope of Mr. and Mrs. Iqbal’s obligations.
46. From the evidence led, the Tribunal took the view that the majority of the works as outlined in the invoices and as spoken to by Mr. Munro were not “repairs” as stated in Clause 12 but are improvements or replacements or are costs for which Mr. and Mrs. Iqbal cannot be held liable. There was no evidence from either Mrs. Ali or Mr. Munro that any damage caused was wilful. There was no evidence as to what repairs were attributed to neglect. There was no evidence of fault or negligence. There was no evidence that new flooring and new lighting was required. There was no evidence that Mr. and Mrs. Iqbal were liable for energy used by the Applicant’s contractors or for renovating the bathrooms within the Property. The burnt out cooker and damage to the boiler was mentioned in evidence but there was no evidence of damage by Mr. and Mrs. Iqbal and no evidence that those repairs had been carried and, if so, at what cost. There was no evidence that the ceiling leak had been caused by Mr. and Mrs. Iqbal nor that it had been repaired and, if so, at what cost.
47. The Tribunal took the view that the Property had been left in a messy condition and agreed with Mr. Iqbal that mess did not mean damage. However, no evidence was

led in respect of cleaning up the mess and disposing of any rubbish or debris and the cost of this.

48. Accordingly, the Tribunal found that the Applicant had not proved her case in respect of Mr. and Mrs. Iqbal's obligations in terms of the tenancy agreement at Clauses 11 and 12.
49. With regard to the rent of £675.00 claimed as due by Mr. and Mrs. Iqbal, the Tribunal noted, firstly, that the monthly rent is £725.00 in terms of the tenancy agreement and as stated in the rent statement lodged with the Application. No explanation or evidence was led in respect of why £675.00 is sought.
50. Part 5 of the Act sets out the ways in which a PRT can be terminated. These are by mutual consent of the tenant and landlord, by the tenant giving notice and leaving on the date in the notice, by the tenant leaving on receipt of a Notice to Leave, in which case the tenancy terminates on the date on which the tenant leaves, or by an eviction order, in which case the order specifies the termination date.
51. Mr. Munro's evidence was that rent is due the 25 December 2021, being the last month of the tenancy. The Notice to Leave lodged with the Application states that the date on which Mr. and Mrs. Iqbal should leave is 13 August 2021. It was clear from the evidence that Mr. and Mrs. Iqbal did not leave the Property until after this date. Mrs. Ali's evidence was that Mr. and Mrs. Iqbal did not give notice of leaving. Mr. Iqbal's evidence was that he arranged with Mr. Inwar to post the keys to him. Both Mrs. Ali and Mr. Munro gave evidence that Mr. and Mrs. Iqbal had vacated the Property by 2 December 2021. Clause 18 of the Tenancy Agreement contains the standard provision that if a Notice to Leave has been served then the tenancy comes to an end on the date specified in that Notice or the day on which the Tenant actually leaves the Let Property, whichever is the later.
52. In this Application, there is no evidence that Mrs. Ali or Mr. Inwar on her behalf and Mr. and Mrs. Iqbal terminated the tenancy by mutual consent on a specified date. There is evidence that Mr. and Mrs. Iqbal did not give notice to leave on a specified date. There is evidence that a Notice to Leave was issued but there is no evidence if Mr. and Mrs. Iqbal vacated the Property in response to that Notice and, if so, on what date. There is no evidence that an eviction order was granted and, if so, on what date the order terminated the tenancy. There is no evidence to show on what the date the tenancy terminated. Accordingly, there is no evidence that the tenancy terminated on 25 December 2021 and so no evidence to show that Mr. and Mrs. Iqbal are due rent to that date.
53. Therefore, the Tribunal found that the claim for rent of £675.00 is not proved.

Decision

54. Having found that the Application had not been proved, the Tribunal refused the Application.

55. This decision is 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.

Karen Moore

Legal Member/Chair

27 June 2024

Date

