



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/24/0371

Re: Property at 154 Boswall Parkway, Edinburgh, EH5 2JJ (“the Property”)

Parties:

**Mactaggart & Mickel Homes Limited, 1 Abercromby Place, Edinburgh, EH3 6JX
 (“the Applicant”)**

**Ms Lucinda Burke, 57 West Pilton Place, Edinburgh, EH4 4DF (“the
Respondent”)**

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of Twelve Thousand Nine Hundred and Seventy Two Pounds and Seventy Two pence (£12972.72) be granted in favour of the Applicant and against the Respondent.

Background

1.This application for a payment order in terms of rule 70 of the tribunal rules of procedure was first lodged with the tribunal on 23rd of January 2024 and accepted by the tribunal on 29th of April 2024. A Case management discussion was fixed for the 10th of July at 11:30 am.

Case Management Discussion

2. Mrs Leanne Young of DJ Alexander lettings attended the case management discussion to represent the Applicant. The Respondent did not attend the case management discussion nor was she represented. The tribunal had sight of an execution of service of the application, supporting papers and the date of the case

management discussion by sheriff officer by serving these personally on the Respondent on 7th of June 2024. In these circumstances the tribunal was satisfied that fair notice of the application and case management discussion had been given to the Respondent and that the tribunal could proceed in the absence of the Respondent.

3. The tribunal had sight of the application, an authority to act on behalf of the Applicant, a tenancy agreement, a Form AT5 and a rent statement. The tribunal also had sight of a number of invoices relating to work done at the property after the Respondent had vacated it.

4. The parties had entered into a short assured tenancy agreement at the property with effect from 1st September 2006. The rent in terms of the agreement was initially £520 per month and had increased over the duration of the tenancy to £625 per month from November 2021 and then to £645 per month with effect from 1st May 2022. In 2021 when the rent was £625 per month rent arrears started to accrue as no payments were made from November of that year. Other than a payment of £3000 paid in November 2022 no rent was paid by the Respondent between November 2021 and August 2023. By August 2023 rent arrears had accrued in the sum of £11070. The Applicant understood that the Respondent had left the property around this time and was seeking rent payments due until end August 2023.

5. The tenancy agreement contained a clause 5(a) setting out amongst other obligations that the tenant undertakes "to keep the property clean and properly aired". In addition, Clause 5(c) required the tenant to "keep the contents in good condition and in proper working order, fair wear and tear excepted and to return the said property and contents in the condition in which they were received". The Respondent has signed the agreement apparently accepting this undertaking.

6. Mrs Young advised the tribunal that the application related to payment of rent arrears and costs incurred at the end of the tenancy. The Applicant had gone through an eviction process and when the Respondent left the property, she left all of her belongings and furniture at the property and the property was left untidy and unclean which meant that the property had to be emptied and cleaned. At the end of September 2023, the Respondent was written to and asked to collect her property from the rental property but she did not communicate in response to that. She was advised that the property left behind would be removed and this was done.

7. Rent arrears had accrued in terms of the tenancy in the sum of £11070 Mrs. Young advised that the Applicant's representative had had limited communication with the Respondent during the period when the rent arrears accrued as the Respondent did not respond to communication regarding the arrears or payment plans. The Respondent had paid the rent using Universal Credit and she had given the Applicant's representative authorization to speak to the DWP but then withdrawn that authority. A communication was sent to the DWP to obtain direct payment of the rent but this was refused.

8. The end of tenancy charges being requested by the Applicant amounted to £2502.72. The tribunal was shown a number of invoices in respect of these costs. One of the invoices amounted to £293.04 including VAT and related to a deep clean at the property including cleaning the oven after the Respondent vacated the property.

and replacement of a bulb for the extractor fan at the property. The second invoice was for a larger sum, £2208.60 including VAT. This was comprised of labour for plumbing, the cost of an isolation valve and labour for a handyman. The property, a two bed lower villa had required 3 handymen to attend to the removal uplift and disposal of all of the belongings and furniture left in the property which had been rented as an unfurnished property. This included personal belongings and the Respondent had been advised that items such as jewellery and personal photographs were being stored at the Applicant's representative's office but she has not responded or taken any steps to uplift this property. The removal uplift and disposal of items from the property had required three persons working each for a total of 9 hours. They had provided a van and had worked over 2 days removing property and taking it to a refuse centre, making a number of trips. The persons who attended to remove items from the property had also required to remove all the white goods which had not been in the rental property at the start of the tenancy.

9. Mrs. Young advised the tribunal that during the process of attempting to recover rent arrears from the Respondent they tried to contact her weekly but had simply received no communication. They were advised by a neighbour that the Respondent was no longer living at the property and at that point were advised that the neighbour had not seen her for months. The Respondent was now believed to be living at her mother's address and when someone attended there to raise the question of removal of her property from the rented property, she simply closed the door.

10. The Applicant's representative advised the tribunal that the deposit paid by the Respondent had been retrieved from a tenancy deposit scheme when the tenancy ended and this had been subtracted from the total sum due.

11. The tribunal was satisfied it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

12. The parties entered into a short assured tenancy agreement at the property with effect from 1st of September 2006.

13. The initial rent due was in the sum of £520 per month and this increased over time to £625 in November 2021 and then £645 per month on 1st May 2022.

14. The property is a ground floor 2 bedroom lower villa and was rented to the Respondent on an unfurnished basis.

15. Rent arrears started to accrue in terms of the tenancy agreement from November 2021 and with the exception of one payment of £3000 paid by the Respondent in November 2022 no rent was paid between November 2021 and August 2023.

16. Regular attempts were made to contact the Respondent to recover rent arrears and to communicate with her but these met with no response.

17. The Applicant understands that the Respondent vacated the property sometime around August 2023.

18. Rent arrears accrued during the tenancy amount to £11070 including the rent due on the 1st of August 2023.

19. When the Respondent left the property, she left all of her possessions and furniture in it including personal possessions.

20. When the Respondent left the property, it required a deep clean and the Applicant required to have the property cleared of the Respondent's possessions and to have these uplifted and disposed of.

21. The Respondent was advised that the property would be cleared and given time to uplift her belongings but failed to do that.

22. The Applicant's representative has retained the Respondent's personal belongings and family photographs and advised the Respondent that these can be collected but has received no response.

23. The tenancy agreement signed by the Respondent included Clauses 5(a) and (c) where the tenant undertakes to keep the property clean and to leave it in the condition in which it had been received by her.

24. The Respondent is in breach of clauses 5(a) and 5(c) of the tenancy agreement in that she did not leave the property clean and left it full of her belongings, furniture white goods and not in the condition which it had been received by her.

25. Rent arrears due by the Respondent to the Applicant amount to £11070 and costs incurred for cleaning the property, replacing the bulb in an extractor fan, plumbing labour, and three persons working over 2 days to clear the property of the belongings, white goods and furniture left in it and disposing of these items amounted to a total of £2502.72 including VAT.

26. The sum of £12972.72 is lawfully due by the Respondent to the Applicant in respect of rent arrears accrued during the tenancy and costs required to be paid by the Applicant at the end of the tenancy as a result of the Respondent's breach of clauses in the tenancy agreement as set out in paragraph 23 and 24 above.

Reasons for Decision

27. The Tribunal was satisfied that rent arrears had accrued over a period of time during the tenancy and despite many attempts to engage with the Respondent about the rent arrears the Applicant's agent had not been able to recover the arrears. The tribunal was also satisfied that the tenancy agreement had been breached by the Respondent and the property had not been left clean or in the condition in which she had received it. She had failed to collect any belongings or furniture and as a result the property had required to be emptied and property disposed of, a job taking three people over 2 days. The property had also required to be deep cleaned, including the

oven. The costs incurred were as a result of her breaches of the agreement and it appeared reasonable to grant the order in the terms requested.

Decision

The Tribunal granted a payment order in the sum of Twelve Thousand Nine Hundred and Seventy Two Pounds and Seventy Two pence (£12972.72) in favour of the Applicant and against the Respondent.

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.

Valerie Bremner

Legal Member/Chair

10.7.24

Date