



**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/23/3868**

**Re: Property at 3 Station Path, Newport-on-Tay, Fife, DD6 8JR (“the Property”)**

**Parties:**

**Mr Karl Mooney, 4 Hill Street, Newport-On-Tay, Fife, DD6 8JS (“the Applicant”)**

**Ms Donna Vincent, 44C King Street, Newport-On-Tay, Fife, DD6 8BE (“the First Respondent”) and Mr Liam Vincent-Kilbride and Mrs Sheona Vincent-Kilbride, 28 Borthwick Place Balmullo, St Andrews KY16 0EB (“the Second Respondents”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant should be dismissed.**

**Background**

1. By application dated 1 November 2023 the Applicant applied to the Tribunal for an order for payment in respect of a claim for the cost of replacing wooden shutters in a bedroom at the property and other damage as well as the cost of time spent by the Applicant and his wife cleaning the property and carrying out gardening work at the property following the end of the Second Respondents’ tenancy. The Applicant submitted a copy of two tenancy agreements, a quote for the cost of replacement shutters, copies of emails and written representations in support of the application.
2. By Notice of Acceptance dated 12 March 2024 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 First Respondent by Sheriff Officers on 19 July 2024.
4. By email dated 9 August 2024 the First Respondent submitted written representations to the Tribunal on behalf of both herself and the Second Respondents.
5. By emails dated 13 and 18 August 2024 the Applicant submitted further written representations to the Tribunal.

### **The Case Management Discussion**

6. A CMD was held by teleconference on 21 August 2024. The parties attended in person.
7. The Applicant confirmed he was seeking payment from the First and Second Respondents jointly and severally the sum of £3900.00 in respect of the damage to the property at the end of the tenancies which he saw as having been merged.
8. By way of a preliminary matter the Tribunal noted that although the Applicant had provided the Second Respondents' details as an appendix to Section 4 of the application this had not been processed by the Tribunal administration and the application had been allowed to proceed as an application solely against the First Respondent. After some discussion with Mr and Mrs Vincent-Kilbride the Tribunal allowed the application to be amended to include them as Second Respondents.
9. The Tribunal noted that the Applicant was seeking to recover from the Respondents the cost of replacing wooden shutters in one of the bedrooms in the property and that he had obtained a quote from Bspoke Joinery at a cost of £2875.00 plus VAT (£3450.00). The Tribunal also noted that in the written representations submitted on behalf of the Respondents it had been said that the Applicant had not purchased the replacement shutters but had sold the property without shutters. The Tribunal also queried how the Respondents could be jointly and severally liable for damage to the shutters when there were two separate tenancy agreements. The Applicant confirmed that he had not purchased replacement shutters and had sold the property. He maintained that given the relationship between the parties although he could not say who was responsible for the damage both parties should pay.
10. The Tribunal noted the submissions made by the First Respondent on behalf of the Respondents with regards to the shutters. In particular that the First Respondent had been unaware of there being shutters as she had only used the room in question as a store room and that when her son had tried to use the shutters during his tenancy of the property the shutters had fallen apart due to the wood being rotten and the parts had been stored in the attic of the property. The Tribunal also noted that the First Respondent had obtained a

cheaper quote from Bspoke Joinery for £1500.00 and more recently an online quote from another company for £355.00.

11. The Tribunal queried with the Applicant how he could claim he had suffered a loss if he had not incurred the expense of purchasing replacement shutters. The Applicant said he found that a difficult question to answer.
12. With regards to the £450.00 claimed for the damage to the kitchen cupboard and sink in the bathroom together with the cost of cleaning the property and gardening costs the Applicant confirmed that he had not repaired the kitchen cupboard or the sink but thought that he and his wife had spent about 12 hours cleaning inside the property and between 60- and 90-hours doing gardening work following the end of the Second Respondents' tenancy.
13. The Tribunal indicated that as the Applicant had not incurred any loss following the removal of the shutters it would not be appropriate to remit consideration of that element of the Applicant's claim to a hearing. The Tribunal would however be prepared to allow a hearing in respect of the remaining claim for £450.00. At that point Mrs Vincent-Kilbride advised the Tribunal that her husband was waiting on brain surgery and the Second Respondents did not wish matters to go further and offered to make immediate payment of £450.00 with no admission of liability. In light of the Tribunal's decision with regards to the remainder of the claim the Applicant confirmed that this would conclude matters.

### **Findings in Fact**

14. The First Respondent entered into a Private Residential tenancy of the property from 26 May 2018 to 25 June 2022.
15. The Second Respondents entered into a Private Residential tenancy of the property on 26 June 2022 and vacated the property on 6 December 2022.
16. Shutters in a bedroom in the property were broken and removed during the Second Respondents tenancy of the property.
17. The Applicant obtained a quote to replace the shutters at a cost of £3450.00 but did not replace them prior to selling the property.
18. The Second Respondents offered to pay the Applicant £450.00 in respect of the balance of the Applicant's claim with no admission of liability.

### **Reasons for Decision**

19. The Applicant claimed for the cost of replacing shutters that had been removed from the property but did not incur the cost of replacement prior to selling the property. As a result, the Tribunal was not satisfied that the Applicant had incurred a loss and refused this part of the Applicant's claim.

20. The Second Respondents agreed to pay the Applicant the remainder of the claim and following the end of the CMD provided the Tribunal with confirmation that payment of £450.00 had been sent to the Applicant's bank account.

21. The Tribunal was therefore satisfied that although the Applicant was entitled to an order for payment in the sum of £450.00 it was not necessary for the order to be issued payment having been made and determined to dismiss the application

### **Decision**

22. The Tribunal being satisfied it had sufficient information before it to make a decision dismisses the application.

### **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

**Legal Member/Chair**

**22 August 2024**  
**Date**