



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/24/0529

Re: Property at 9 Craigievar Crescent, Garthdee, Aberdeen, AB10 7DE (“the Property”)

Parties:

Ms Dahlia Barnes, 639 Harrow Road, London, NW10 5NU (“the Applicant”)

Ms Qianqian Xu, Mr Kwok Shun Ho, 18 Dunlin Crescent, Cove Bay, Aberdeen, AB12 3WJ (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make no order

Background

- 1 This is an application for a payment order under section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 and rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017. The Applicants sought an order for payment in the sum of £683.16. The application was conjoined with a separate application under reference FTS/HPC/CV/24/2415.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 15 November 2024. The Tribunal gave notification of the CMD to the parties in accordance with Rule 17(2) of the Rules.
- 3 Prior to the CMD the Tribunal received written representations from the parties with additional documents for consideration.

- 4 The CMD took place on 15 November 2024. All parties were in attendance. Having heard submissions from the parties the Tribunal determined to fix a hearing. The Tribunal identified the issues to be resolved at the hearing as:-
 - (i) Was there a chemical odour in the property during the period of 25 December 2023 and 24 January 2024?
 - (ii) Did said odour cause a deterioration in the Applicant's health?
 - (iii) Was the source of the odour due to any deliberate act or neglect on the part of the Respondents?
- 5 The Tribunal issued a Direction to the parties requiring evidence to be submitted in advance of the hearing. The Direction also required the Applicant to provide evidence that there was a chemical odour in the property and that said odour caused her health to deteriorate.
- 6 On 17 April 2025 the Tribunal received an email from Mr Ho advising that he would be unable to attend the hearing and that he authorised Mrs Xu to represent both Respondents. On 28 April 2025 the Tribunal received a response to the Direction from the Applicant by email.

The hearing

- 7 The hearing took place on 16 May 2025 by teleconference. The Applicant joined the call. Mrs Xu appeared on behalf of both Respondents.
- 8 The Tribunal proceeded to hear evidence from the parties. The following is a summary of the key elements of the evidence and does not constitute a verbatim account of the discussion.
- 9 The Tribunal noted that it appeared no evidence had been submitted to confirm the existence of a chemical odour, nor to establish that the Respondents' were at fault. The Tribunal also noted that no medical evidence had been provided to establish any causal link between the Applicant's health problems and the alleged odour. The Applicant explained that she did not have any evidence in that regard.
- 10 The Tribunal proceeded to hear from the Applicant as to why she believed her claim could be determined in the absence of the evidence required. The Applicant pointed to the documents she had submitted which she believed clearly showed she was suffering as a result of the odour in her room. She had purchased goggles and a mask. She had moved out of the property and into a hotel to escape the problem. She would not have taken such action if no odour existed. No medical evidence had been submitted because she was only affected by the odour when in her room. The Respondents had a duty to fully investigate the issue in accordance with their responsibilities as landlords. The Applicant had received advice to this effect from Shelter.
- 11 The Tribunal noted that correspondence had been produced between the parties, in which the Respondents were proposing to come back out to the

property with the police to investigate the odour. The Applicant explained that the police had become involved following a different complaint the Applicant had made. The Applicant did not know why the Respondents were liaising with the police regarding the issue. The Applicant stated that she believed the source of the odour may have been another tenant in the property, with whom she understood the Respondents were acquainted. She thought the other tenant had taken a dislike to her. She did not want any other tenants to be in the same situation. The Tribunal noted that the Applicant had contacted environmental health and queried why they had not attended the property. The Applicant advised that she had subsequently decided to leave due to the impact of the odour.

- 12 Mrs Xu explained that the Respondents had attempted to investigate the alleged odour. They had spoken with the other tenants in the property, none of whom were experiencing the same issues. They had a gas engineer out to the property who could not identify any chemical smell. They had tried to engage with the Applicant regarding the issue but she had made things difficult. The police had attended the property on 5 January 2024, however they could not gain access to the Applicant's room. The Applicant was present in the property at the time but did not answer when they knocked on her door. The police had not found anything untoward elsewhere in the property.
- 13 The hearing concluded and the Tribunal determined to issue its decision in writing.

Findings in fact

- 14 The Applicant and Respondents entered into a tenancy agreement in respect of the property, which commenced on 1 November 2023.
- 15 The tenancy between the parties was a private residential tenancy under section 1 of the 2016 Act.
- 16 On 25 December 2023 the Applicant contacted the Respondents by text message to inform the Respondents that a gas engineer had attended the property and had detected an odour in the room of a fellow tenant. The Respondent contacted the fellow tenant by text message that same day. The fellow tenant advised that he did not know what was causing the smell.
- 17 On 5 January 2024 the Applicant contacted the police to report an "*unknown substance within the property that was causing harm to individuals that came into contact with it*". The police were unable to contact the Applicant in response to the report. The Respondents also attempted to contact the Applicant by telephone to discuss. The police attended the property that day with the Respondent. The police carried out a search and spoke with the fellow tenant about his use of tea tree oil, which they concluded was the source of the odour.

- 18 On 7 January 2024 the Respondents contacted the fellow tenant by text message to advise that the source of the odour appeared to be his tea tree oil. The Respondents asked the fellow tenant to consider alternatives. The fellow tenant responded to confirm that he would stop using tea tree oil.
- 19 On 7 January 2024 the Respondents emailed the Applicant with an update regarding the odour. The Applicant disputed that the source was tea tree oil. The Respondents advised that they would contact the police to ask them to come back out to the property, and requested the Applicant allow access to her room. The Applicant responded on 8 January 2024 to state that *"it would make no sense for the police to inspect my room today"* and *"the police need to come when the odour/symptoms are present"*.
- 20 Between 7 January 2024 and 10 January 2024 the Respondents were in communication with the Applicant by email regarding her complaint. The Respondents suggested various approaches to address the issue, which were declined by the Applicant. The Respondents recommended the Applicant contact the police if the odour re-occurred, and to seek medical help if she felt unwell.
- 21 The Respondents made several attempts to discuss the Applicant's complaint with the Applicant in person or by telephone. The Applicant did not wish to discuss the issue with the Respondents, preferring to communicate only by email or text message.
- 22 The Applicant reported her complaint to the local authority's environmental department. The environmental health department did not visit the property as the Applicant had subsequently decided to move out.
- 23 On 11 January 2024 the Applicant texted the Respondents stating *"I would like to get the hell out of this toxic environment, your property, by the end of today at the latest..."*
- 24 The Applicant vacated the property on or around 24 January 2024.

Reasons for decision

- 25 The Tribunal took into account the application, all documents received from the parties and the evidence from the hearing in reaching its decision on this application. It should be noted that the Applicant submitted further written representations to the Tribunal on 19 May 2025, which have not been considered by the Tribunal as they were received after the hearing had concluded.
- 26 In this case the Applicant seeks compensation for an alleged failure by the Respondents to address an alleged odour in her room within the property. Having considered the evidence before it, the Tribunal considered it was unable to accept the Applicant's position on this matter. The Tribunal took into account the fact that the Applicant had bought items that suggested she had been dealing with an odour during her time at the property, such as goggles and a

mask. The Tribunal also had regard to the fact that the Applicant had paid for alternative accommodation as evidenced by the receipts and invoices produced. However, in order for the Applicant's claim to be successful, there had to be clear evidence showing a causal link between the Respondents' acts and the alleged issues the Applicant had experienced. The Tribunal was unable to identify any such evidence in this case.


- 27 In particular, the Tribunal was unable to make any findings regarding the source of the odour in the Applicant's room. The Applicant believed this was a result of a deliberate act by a fellow tenant. However, she had produced no evidence to support this claim, other than her own suspicions and a newspaper article from the USA, which highlighted conduct by a tenant of a similar nature. The Applicant had also failed to produce any evidence to establish that the cause of her health problems was the alleged odour, despite stating in her written representations that her "*chest and lungs...seem to be permanently damaged*".
- 28 The Tribunal was also unable to make any findings to attribute the alleged chemical odour to any failure on the Respondents' part. The Tribunal accepted that the Respondents had carried out inquiries following the Applicant's complaint of an odour in another tenant's room. The documentary evidence showed they had investigated and had initially concluded, following police involvement, that the source of the odour was tea tree oil, which was in use by a fellow tenant. That was a reasonable conclusion for them to reach. They had received no reports of a chemical odour from any other residents in the property and had not witnessed it themselves. The Applicant's expectations may have differed from the action the Respondents had taken and she may have disagreed with the outcome of their investigations, and their approach. Nonetheless, the Tribunal did not find that they had failed to fulfil their obligations as landlords. The evidence showed that they had been responsive upon being made aware of the issue by the Applicant and willing to work with the Applicant to reach a satisfactory conclusion to the matter.
- 29 The Tribunal therefore concluded that the Respondents were not liable for the costs sought by the Applicant in this case and determined to make no order.
- 30 The decision of the Tribunal was 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.

Ruth O'Hare

9 June 2025

 Legal Member/Chair

Date