



**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/24/3928

**Re: Property at 41 George Drive, Loanhead, Midlothian EH20 9DL (“the
Property”)**

Parties:

Mr David Neave, 77 The Loan, Loanhead EH20 9AG (“the Applicant”)

**Mr Olatunbosun Oladipo, Mr Ayorinde Komolafe and Mrs Opeyemi Komolafe-
Oladipo (“the Respondents”)**

Tribunal Member:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application could be decided without a Hearing
and made an Order for Payment by the Respondents to the Applicant of the sum
of £3,186.97.**

Background

1. By application, dated 23 August 2024, the Applicant sought an Order for Payment in respect of damage to the Property and to recover the reasonable cost of reinstating the Property back to where it was at the start of a tenancy, taking account of fair wear and tear.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 15 October 2021 at a monthly rent of £915 per month, with a deposit of £1,015. He also provided copies of pictures from the Inventory at the start of the tenancy, a quote from Dynamic Property Services, dated 19 June 2024, for a new kitchen, washing machine, cooker hood, hob, oven, sink and tiles, complete replacement of carpets and laminate flooring and complete redecoration,

and a quote from Pentland Building Services Ltd for redecoration, replacement of flooring and installation of a new kitchen.

3. The Applicant also provided a copy of an exit report dated 13 June 2024 from Nolettinggo. It described many items, including kitchen units, as “grubby” and stated that the washing machine, oven and hob required cleaning. The carpets and floorcoverings were said to be “generally in good condition, not clean throughout”, with the carpet in bedroom one described as being “in fair condition”. The hall and stair carpets were in poor condition. The decoration was said to be in very poor condition throughout.
4. On 9 December 2024, the Applicant provided an update on the amount he was claiming, as follows:

Gardening	£142
Decoration	£4,068
Floor coverings	£6,600
Blinds throughout	£316
Kitchen	£8,597.96
Cleaning/removal of debris	£644
Sundries (removing various brackets trunking and fixings)	£82
Replacing wardrobe handles	£52
Loss of rent	£2,850

The total amount claimed was £23,351.96, from which fell to be deducted the deposit of £1,105, producing a final figure of £22,336.96.

5. On 30 April 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 21 May 2025.
6. The Respondents provided written representations on 16 May 2025. They stated that they had voluntarily agreed to a deduction from the deposit of £200.37 in respect of some minor wear-related marks on the decoration. The balance of deposit (£814.63) had been refunded to them after adjudication by Safe Deposits Scotland. They contended that they were still owed a refund of rent of £282.74, as they had vacated the Property on 5 May 2024 on the expiry of a Notice to Leave, but had paid rent to 14 May 2025. They strongly contested the amount claimed as being excessive and wholly disproportionate. It appeared that the Applicant was carrying out a full renovation of the Property at their expense. The reason stated in the Notice to Leave was a failure to look after the Property. The Parties agreed in direct communication that the Applicant would withdraw the Notice to Leave, and the Respondents would give him three months’ notice. They did that, but the Respondent never withdrew the original Notice to Leave. As a result, Safe Deposits Scotland had held that the lease terminated on 6 May 2024.
7. The view of the Respondents was that the claim that the kitchen was damaged throughout was inaccurate and that any damage was the result of

fair wear and tear. They accepted that there were a number of small holes in walls from curtain rails and television installations. They had obtained the Applicant's approval in advance of these installations and believed that the amount they had let go from the deposit would be sufficient to fill them. The carpets showed signs of use, but they did not require extensive deep cleaning beyond what is reasonable at the end of a tenancy. Scratches on kitchen units and walls were minor and resulted from normal use, not neglect or abuse. The claim that the whole Property required redecoration and plastering was excessive. It remained in a state of reasonable repair, consistent with the conditions outlined in the tenancy agreement.

8. The Respondents provided the Tribunal with a copy of the adjudication outcome from Safe Deposits Scotland. This stated that it was not clear that the original Notice to Leave was revoked and there was no evidence that an alternative notice had been agreed between the Parties. The adjudicator therefore considered that the 28 days' notice issued on 9 April to be the notice that would end the tenancy, and the tenants were liable for rent to 6 May 2024. The Rent Statement showed that it had in fact been paid to 15 May 2024. The Applicant had submitted a claim for £500 for deep cleaning, £300 for deep cleaning carpets, £1,500 for redecoration throughout and repairs to walls, and £800 to replace all kitchen units. The adjudicator decided that, given the time between the end of the tenancy and the check-out report (approximately one month), the check-out report could not be considered as representative of the condition of the Property as at the end of the tenancy, so the adjudicator made no award to the Applicant and refunded the deposit, less the amount offered by the Respondents (£200.37).
9. The Respondents also provided a copy of a Notice to Leave dated 9 April 2024, the reason given being that the Respondents had not looked after the Property in any way and had caused damage to the fabric of the Property, screenshots of messages between the Parties regarding repairs, including an email of 7 February 2022 in which the Respondents complained that the hob was producing red flames, blackening pots, and agents' inspection reports. These reports were all favourable until 25 March 2024, when the agents, Rent Locally, stated that the general condition, Inventory items and carpets/flooring were all poor. They had given the Respondents two weeks to make improvements, with a further visit arranged for 8 April 2024.
10. On 27 May 2025, the Applicant told the Tribunal that he had been unaware if the issue regarding overpaid rent but was happy to return any monies due. On 11 June 2025, he stated in an email that what he was looking for was a return to the condition the Property was in before the tenancy began.
11. On 10 June 2025, the Respondents provided further lengthy representations in which they challenged the impartiality of the check-out report and insisted that they had maintained the Property in good condition and had consistently co-operated with all scheduled inspections, without incident. Their departure had not been voluntary. They had requested that the Notice to Leave be withdrawn and proposed instead to vacate amicably upon securing suitable alternative accommodation, but the Applicant had declined to withdraw the

Notice and had reaffirmed in writing that it remained in effect. They provided a copy of an email from the Applicant to Mr Olatunbosun of 26 April 2024 stating that he needed a formal answer as to when the Respondents were vacating the Property. If they were suggesting 15 July 2024 that was fine, but they would be responsible for rent until that date along with returning the Property back to the same condition. He added "If not then the Notice to Leave with (sic) stay in place from 8 April 2024."

Case Management Discussion

12. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 22 July 2025. The Applicant was not present or represented. The Respondents were all present.
13. The Tribunal Chair referred to the fact that the check-out report had been completed some 5 weeks after the Respondents moved out and asked if they accepted that the report was an accurate reflection of the condition in which they left the Property. They responded that some of the plaster damage to walls seemed greater than it had been when they left. They advised the Tribunal that the Property appears not to have been re-let.

Reasons for Decision

14. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
15. The Tribunal considered first the question of the termination date of the tenancy and agreed with the conclusion of the Safe Deposits Scotland Adjudication that it ended on 6 May 2024. Whatever might have been agreed informally between the Parties, there was no evidence that the Applicant ever formally withdrew the Notice to Leave. Accordingly, it remained in force. It was dated 9 April 2024 and the 28-day notice period expired on 6 May 2024, although it stated that an application to the Tribunal for an Eviction Order would not be made before 16 May 2024. The rent had been paid to 14 May 2024. The Respondents are, therefore, entitled to a refund of £240.66, being 8 days' rent.
16. The Tribunal then considered the Applicant's claims for damages. The Tribunal noted that a check-out report was dated some 5 weeks after the Respondents vacated the Property but, subject to the caveat that it was possible that the Applicant had carried out works or that defects highlighted in the report might have become worse in the intervening period, it was a contemporaneous and independent report, which the Respondents accepted as broadly accurate, apart from their comment at the Case Management Discussion about plaster cracks in walls appearing to be worse than they remembered. The view of the Tribunal was that this report was of great

importance in both its description of the condition of the Property and its contents and the remedial action that the authors of the report recommended.

17. The report stated that the damage to the blinds was beyond fair wear and tear and that they should be replaced. The Tribunal regarded the Applicant's claim for £316 to be reasonable.
18. It was clear from the photographs in the check-out report that complete redecoration was required, but the Tribunal had to set against that cost an element of fair wear and tear. The Property was let for 2 years and 7 months and the view of the Tribunal was that a landlord might expect to have to redecorate once every 5 years. It appeared to the Tribunal, however, that the deterioration in the decoration could not simply be regarded as fair wear and tear. Accordingly, the Tribunal determined that the Applicant's claim in respect of redecoration should be allowed, but reduced by 50%, to £2,034 to take account of the length of the tenancy.
19. The largest single item in the claim was for a completely new kitchen, at a cost of £8,597.96. The view of the Tribunal was that this element of the claim was completely unjustified, although some allowance should be made for the fact that there were dents in the kitchen sink and one of the control knobs on the hob was damaged. The Tribunal's view was that an allowance of £250 for these items would be reasonable. The check-out report stated that cleaning was required, not replacement, so the Tribunal rejected that part of the claim. The Tribunal also noted that the Respondents had reported on 7 February 2022 that the hob was producing red flames.
20. In relation to carpets and floorcoverings, the Applicant had claimed £6,600 for complete replacement. The check-out report, however, suggested cleaning, not replacement, and, whilst the Applicant might have chosen to replace them, the Tribunal was not prepared to award him the cost of doing so and, given the check-out report, was not persuaded that the condition of the carpets and floorcoverings was materially worse than a landlord might expect to result from fair wear and tear. It was, however, reasonable that the Respondents should be liable for the cost of cleaning them. The Tribunal's view was that compensation of £250 for cleaning costs for floorcoverings would be reasonable.
21. The Tribunal decided that the claim of £644 for general cleaning and removal of debris was reasonable and should be allowed. It was borne out by the photographic evidence in the check-out report.
22. The Respondents accepted that they had instructed certain work which involved trunking and fixings in relation to the installation of wi-fi facilities. They stated that they had obtained the consent of the Applicant before carrying out these works, but the Tribunal considered that it was their responsibility to remove these items and reinstate the property when they left. Accordingly, the Tribunal accepted the claim of the Applicant of £82.

23. The check-out report recommended the replacement of missing wardrobe handles at the Respondents' expense, and the Tribunal agreed with that finding, the cost involved being £52.
24. The Tribunal was not prepared to order the Respondents to reimburse the Applicant the gardening costs of £142, as the period of 5 weeks between the end of the tenancy and the check-out report occurred during the main growing season and it would be speculation to make a determination as to the condition of the garden at 6 May 2024.
25. The view of the Applicant was that he expected the Property to be returned to him in the same condition as it was when the tenancy began. Landlords are not entitled to have that expectation. Any rented property will suffer fair wear and tear, and landlords must anticipate that it will be relatively rarely that a property can be re-let without any break, particularly when the tenants have been in occupation for a number of years and minor repairs would be expected. The Tribunal had determined that the check-out report did not justify the Applicant in claiming for the fitting of a new kitchen or new carpet and floorcoverings. These were choices made by the Applicant, presumably with a view to being able to re-let quickly when the works were completed and with a view to maximising the rental return. There was no evidence as to when or if the Applicant has re-let the Property and the Tribunal's view was that the Respondents could not be held liable for loss of rent.
26. Having considered carefully all the evidence before it, the Tribunal decided that the Applicant's claim should be restricted to £3,628, being the total of the sums awarded in respect of blinds (£316), redecoration (£2,034), replacing the kitchen sink and damaged knob on the hob (£250), carpet cleaning (£250), general cleaning and removal of debris (£644), removal of wi-fi fixings and making good (£82) and replacement of wardrobe handles (£52). This sum, however, falls to be reduced by the amount already conceded by the Respondents as a deduction from the deposit (£200.37) and the refund of overpaid rent (£240.66). The Tribunal decided, therefore, to make an Order for Payment by the Respondents to the Applicant of the sum of £3,186.97).

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.

George Clark

Legal Member/Chair

11 August 2024
Date