



**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/24/4635

Re: Property at 29 Clare Crescent, Larkhall ML9 1ES (“the Property”)

Parties:

Andrew Newman Limited, 14 West Mains Crofts, West Calder EH55 8FL (“the Applicants”)

Mr John McGuire and Miss Kylie Henderson, both sometime 29 Clare Crescent, Larkhall ML 9 1ES, whose present whereabouts are unknown (“the Respondents”)

**Tribunal Members:
George Clark (Legal Member)**

Decision (in absence of the Respondents)

The Tribunal decided that the application should be determined without a Hearing and made an Order for Payment by the Respondents to the Applicants of the sum of £3,884.

Background

1. By application dated 7 October 2024, the Applicants sought an Order for Payment in respect of damage caused by the Respondents and costs incurred by the Applicants in relation to a tenancy of the Property. The sum sought was £5,540.08.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 28 March 2022 at a rent of £850 per month, a Check-in Report dated 24 March 2022, a series of undated photographs taken at the termination of the tenancy and a number of Invoices for work and services rendered to the Applicants. The photographs indicated damage to the electrical consumer unit, light fitting and a number of electrical switches and sockets as well as to the smoke alarms and heat detector, a large amount of belongings left behind by the Respondents, scuff marks and other damage to walls and skirtings and significant marking to the

carpet. The Invoices were for electrical work (£1,404), removal and disposal of belongings and rubbish (£200), extensive cleaning after eviction, particularly to the oven and carpet (£260), an Invoice from Premier Property Maintenance Ltd for a number of minor repairs and for redecoration throughout (£2,520), a further invoice from Premier Property Maintenance Ltd for unspecified “additional works” (£720) and three Invoices from sheriff officers in connection with tracing the Respondents and executing an Eviction Order (£436.08).

3. On 22 February 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 15 March 2025. The Case Management Discussion was postponed twice, on 23 April 2025 and 31 July 2025 and was rescheduled for 4 September 2025. As the Respondents’ whereabouts were unknown, service was effected by advertisement on the Tribunal’s website from 23 July 2025 to 28 August 2025. The Respondents did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 5 September 2025. The Applicants were represented by Mr Andrew Newman. The Respondents were not present or represented.
5. The Tribunal Member went through the various Invoices with Mr Newman. The Tribunal Member indicated that he was not prepared to allow any claims for expenses in connection with tracing the Respondents or for the eviction, as the Tribunal’s Rules only allow an award of expense if a party has shown unreasonable behaviour in the conduct of a case. He would also not be permitting recovery for unspecified “additional works” and would be making an allowance for fair wear and tear in respect of redecoration.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”) 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.
7. The Tribunal was satisfied from the photographic evidence provided by the Applicants that there had been damage to the electrical consumer unit, a light fitting and a number of light switches and sockets, as well as to the smoke alarms and heat detector. This was damage, not fair wear and tear, so the Tribunal decided that the Invoice for £1,404 was justified and the amount recoverable from the Respondents. There were a number of what appeared to be screw-holes in walls, and a detached door in one of the base units in the kitchen. The walls had ink or crayon marks in places, with further marks above

a number of radiators, damage to a shelf in a cupboard and marks on the stair carpet, as well as various other minor issues. This damage went beyond what might reasonably be regarded as fair wear and tear. The cost of remedying these defects, including complete redecoration, was £2,520. The view of the Tribunal was that an allowance for an element of fair wear and tear was appropriate and deducted £500 from that amount.

8. The view of the Tribunal was that the condition in which the Respondents had left the Property justified an extensive clean and that the marks on the carpet were more than fair wear and tear. The Applicants had also incurred expenses of £200 in removing and disposing of rubbish and belongings, including an outdoor trampoline, left behind by the Respondents. The Tribunal decided that the Applicants were entitled to recover their costs for those matters.
9. Rule 40 of the 2017 Regulations provides that “The Tribunal may award expenses as taxed by the Auditor of the Court of Session against a party but only where that party through unreasonable behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense.” There was no evidence that the Respondents had behaved unreasonably in the conduct of the present case or the application for an Eviction Order which preceded it, so the Tribunal did not order reimbursement of the sheriff officers’ Invoices. The fact that the Respondents had not engaged with the process or appeared at the Case Management Discussion could not be regarded as unreasonable behaviour.
10. The Tribunal deducted from the sum sought £500 for fair wear and tear, £720 for the unspecified “additional works”, and £436.08 in respect of sheriff officers’ charges, but otherwise regarded the Applicants’ claim as reasonable in all the circumstances and made an Order for Payment in the sum of £3,884.

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

4 September 2025
Date

