

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/1499

Re: Property at 41 Smithfield Road, Aberdeen, AB24 4NY (“the Property”)

Parties:

Mr James McGinley, 16 Sunnyside Gardens, Aberdeen, AB24 3LZ (“the Applicant”)

Mr Adam Mohamed, 339 Lee Crescent, North Bridge of Don, Aberdeen, AB22 8GT (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Mr Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be granted against the Respondent for payment to the Applicant the sum of Nine Thousand Five Hundred and Forty Five Pounds (£9,545)

Introduction

This is an application under rule 111 and section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Direction

The Tribunal issued a Direction to the Respondent following the CMD on 18 February 2025 in the following terms:

“The Respondent requires to:

1. Specify in writing in detailed submissions the basis upon which he says he was entitled to withhold rent and for what period.

2. Specify the dates he reported repair issues to the landlord, by what mode of communication and evidence this.
3. Produce documentary evidence from a tradesman or other expert which supports his claim that services in the property were substandard.
4. Evidence when he communicated to the landlord his intention to retain the rent and for what reason.
5. Evidence the retained rent has been held in a nominated bank account ringfenced and preserved pending the dispute between the parties being resolved.”

The Direction required compliance by the respondent no later than 1 April 2025. The respondent failed to comply. The respondent has failed to comply over a number of further months. His failure to comply impairs his credibility.

Hearing 22 August 2025

The applicant was represented by his daughter Mrs McBeath. The respondent failed to attend.

Findings and Reasons

The property is 41 Smithfield Road, Aberdeen AB24 4NY. The applicant is Mrs Deborah McBeath who is the heritable proprietor and registered landlord. The respondent is Mr Mohamed Adam who is the former tenant. The parties entered into a private residential tenancy which commenced on 16 July 2022. The rent was £585 per month. A £585 deposit was paid. There was a second occupant in the property who was Natalia Pifczyk, but she was not a signatory to the lease.

Throughout the duration of the tenancy the respondent fell into arrears of contractual rental payments. He vacated the property on 18 June 2025. A detailed rent statement is relied upon. The rent arrears at the end of the lease were a total of £9,945. The deposit paid, which has been withheld, reduces the rent arrears to a total of £9,360.

The applicant also seeks to recover £185 relative to joinery work to repair damage to internal doors and the bathroom cabinet. Other charges sought to be recovered, which are referenced within the application, are not insisted upon.

The respondent accepted responsibility for the additional charges in the sum of £185 at the CMD. It was his earlier stated position that he was entitled to withhold, at least part of, the rent due to repair issues in the property. He has failed to evidence such stated defence.

The Tribunal accepted the applicant's detailed position on the condition of the property credible and reliable. The condition of the property was always acceptable. There was one reported incident of a burst pipe in December 2022 which was rectified quickly by

a plumber. The respondent subsequently refused entry to the heating engineer. The applicant's position is unchallenged by the respondent today.

The applicant is entitled to recover arrears of rent under and in terms of the lease. The applicant is also entitled to recover reasonable costs incurred as a consequence of the respondent's acts and omissions. The total the applicant is entitled to recover is £9,545.

A payment order is necessary as the respondent has made no proposals for payment.

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.

Richard Mill

22 August 2025

Legal Member/Chair

Date