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 16 of the Housing (Scotland) Act 2014 ("the 2014 Act") and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Rules")

Chamber Ref: FTS/HPC/CV/24/3861

Re: Property at 213/2 West Granton Road, Edinburgh, EH5 1PD ("the Property")

Parties:

Mr Isewede Ohiomoba, 78 Ferry Road Drive, Edinburgh, EH4 4GZ ("the Applicant")

Mr Thaddeus Adikwu, Mrs Bridget Adikwu, 36 Pennywell Gardens, Edinburgh, EH4 4FX ("the Respondent")

Tribunal Members:

Ms. Susanne L. M. Tanner KC (Legal Member)
Ms. Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the Tribunal) determined that the Respondents should pay the Applicant the sum of FIVE HUNDRED AND EIGHTY POUNDS (£580.00) STERLING; and made an Order for Payment in respect of the said sum.

Reasons

Procedural Background

1. On 21 August 2024, the Applicant (with the assistance of Citizens Advice Edinburgh) made an application to the tribunal in terms of Section 16 of the Housing (Scotland) Act 2014 (the 2014 Act) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules) (the Application).

2. The Applicant sought a payment order against the Respondents for £625.00, which was said to be the balance of his tenancy deposit which was retained by the Respondents after the conclusion of his tenancy of the Property.

3. The documents with the Application were:
   3.1. 'Style Short Assured Tenancy agreement dated 6 October 2023;
   3.2. Copy bank statements of the Applicant for the period 1 to 31 July 2024;
   3.3. Eight photographs (undated/untitled);
   3.4. Copy screenshots of messages with 'Mr Tadi Ichima Edinb';
   3.5. Copy screenshot of payment to Bridget Adikwu of £4000.00 on 3 October 2023; and
   3.6. Copy screenshot of payment to Bridget Adikwu of £200.00 on 3 November 2023.

4. On 22 August 2024, the tribunal's administration obtained the Title sheet for the Property which showed that the Respondents had been the registered proprietors of the Property since 18 October 2023, with a date of entry of 6 October 2023.

5. On 22 August 2024, the tribunal searched Landlord Registration Scotland, which shows that the Property was not in the landlord register and the Respondents were not registered as landlords at that time.

6. The Application was accepted for determination by the tribunal.

7. A Case Management Discussion (CMD) teleconference was fixed for 26 March 2025 by teleconference.

8. The tribunal sent letters of notification to the parties dated 17 February 2025 with the date, time and arrangements for joining the CMD in relation to the Application. The Respondents were invited to make written representations in response to the Application by 10 March 2025. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. The parties were also advised that if they do not attend the CMD this would not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair.

9. The Respondents were served by Sheriff Officers on 21 February 2025 with the Application (including documents lodged with it) and notification of the CMD.

10. On 10 March 2025, the Respondents lodged written submissions in response to the Application and the following documents:
    10.1. Copy letter from Respondent to Applicant (undated);
    10.2. Copy screenshot from Applicant to Respondent dated 9 July 2024;
    10.3. Invoices relating to repairs; and
    10.4. Photographs of the Property.

11. The Respondent also requested to lodge video evidence but this was not lodged until the first day of the hearing, as discussed below.

12. The Respondent lodged a witness list with three witnesses: Dr Precious Ogbeiwi; Mr Ogbeiwi Osas and Mr Curtis Brisanes.

13. The CMD was postponed to 26 June 2025 at 1400 and all parties were served with notification.

14. The CMD took place on 26 June 2025 with a different legal member Ms Bonnar. Reference is made to the Notes of the CMD which were produced by the tribunal chair at that time and sent to both parties (Bundle, p123-124) and a Direction was issued by the tribunal. The CMD was adjourned to another date.

15. The second CMD took place on 29 June 2025, again with legal member Ms Bonnar chairing. Reference is made to the Notes of the CMD which were produced by the tribunal chair at that time and sent to both parties (Bundle, 140-143); the case was adjourned to an in-person hearing and a further Direction was issued to parties on 29 June 2025 in relation to lodging of documents, video evidence and witness lists no later than 21 days prior to the hearing.

16. An in-person hearing was fixed for 6 October 2025 at Edinburgh Tribunals Centre and all parties were notified.

17. On 23 September 2025, the Respondents lodged
    17.1. a witness list and unsigned and undated witness statements from:
    17.2. Mr Curtis Brisefert;
    17.3. Ms Cassandra Adikwu;
    17.4. Mr Moses;
    17.5. Mr Osas Ogbeiwi.

    17.6. additional documents relating to repair costs and photographs of the Property.

    17.7. He also made reference to video clips but these were not lodged at that time due to not complying with the tribunal's protocol for video lodging.

18. The Applicant did not lodge anything additional before the hearing.

Hearing (6 October 2025, 22 July 2026 and 21 August 2026)

19. The hearing took place over three days: 6 October 2025 (in person), 22 July 2026 (remote) and 21 August 2026 (remote).

20. A hearing day fixed on 2 February 2026 was postponed for medical reasons on the application of the Respondents.

21. The Applicant attended all three days of the hearing.

22. The Respondents attended the first two days of the hearing, but did not attend the third day, as discussed further below.

23. Late video evidence was lodged by both parties as follows:

    23.1. Video 0019, which the Applicant stated was taken by his wife, Mrs Caroline Ohiomoba at the Property on 7 October 2023;
    23.2. Video 0018, which the Respondent stated was taken by the Respondent's daughter Ms Cassandra Adikwu at the Property on 7 October 2023; and
    23.3. Video 0006, which the Respondent stated was taken by him at the Property on 29 May 2024.

24. The Applicant led evidence from the following witnesses:

    24.1. Himself;
    24.2. Mrs Caroline Ohiomoba, his wife.

25. The Respondents led the following witnesses:
    25.1. The First Respondent, Mr Adikwu
    25.2. The Second Respondent, Mrs Adikwu
    25.3. Dr Precious Ogbeiwei; and
    25.4. Miss Cassandra Adikwu, the Respondents' daughter.

26. The Respondent confirmed that he was not calling any of the other witnesses on his witness list. He was told by the tribunal that little or no weight could be placed on the undated or unsigned witness statements that he had produced prior to the hearing and he indicated that he understood.

27. All evidence was completed in the first two days of the hearing and the case was adjourned for submissions. Both parties were ordered to produce written closing submissions in advance of the third day of the hearing.

28. Both parties lodged written closing submissions:
    28.1. The Respondents on 31 July 2026;
    28.2. The Applicant on 7 August 2026.

29. On 20 August 2026, the First Respondent sent an email to the tribunal's administration, which was sent to the tribunal members and Applicant on 21 August 2026, shortly before the submissions hearing. He stated that he had lost his mother on 20 August and was unable to attend the hearing but stated that if the case cannot be adjourned indefinitely, he was happy and ready to accept any ruling from the tribunal based on his last submissions and all the evidence he tendered during the hearing and all the witnesses including Dr Precious Ogbeiwi.

30. The Applicant attended the hearing on 21 August 2026. The Respondents did not attend for the reason given above.

31. As the Respondents had not made an application for postponement/adjournment, of the hearing on submissions the tribunal did not adjourn the hearing on its own initiative in terms of Rule 28 of the 2017 Rules, as it took into account the overriding objective of the tribunal in Rule 2 to deal with the proceedings justly, which includes dealing with the proceedings in a manner which is proportionate to the complexity of the issues and the resources of the parties and avoiding delay, so far as compatible with the proper consideration of the issues. All evidence in the case has been led and both parties have lodged full written submissions. The First Respondent indicated that he is content for the decision to be made on the basis of the evidence led and the written submissions he has lodged.

32. The tribunal was also satisfied that the requirements of Rule 24(1) regarding the giving of notice of a hearing have been duly complied with and proceeded with the application upon the representations of the party present, in terms of Rule 29 of the 2017 Rules.

Applicant's submissions

33. The Applicant made oral submissions to supplement his written submissions and responded to the Respondent's written submissions.

34. The tribunal makes the following findings-in-fact:

35. The Respondents Thaddeus Ichima Adikwu and Bridget Adikwu, have been the registered owners of the Property equally between them since 18 October 2023 with a date of entry on 6 October 2023.

36. The Property is a two bedroomed ground floor flat with a front garden and a right in common with the three other proprietors in the building to the back garden.

37. In or about September 2023, the Applicant and his wife moved to Scotland from United Arab Emirates and stayed temporarily with relatives while they looked for a property to let.

38. In or about September 2023, the Applicant and his wife were introduced to the Respondents by the Applicant's brother in law, Dr Precious Ogbeiwei, who was also a friend of the Respondents.

39. The Respondents agreed to let the Property to the Applicant and his wife from on or about 6 October 2023 and it was agreed that the rent would be £1050.00 per calendar month, with the first three months paid in advance and a tenancy deposit of £1050.00 to be paid in advance.

40. On 3 October 2023, the Applicant made a payment of £4000.00 to the Second Respondent, which comprised a tenancy deposit of £1050.00 and advance rent of £2950.00 to the Respondents.

41. On 3 November 2023, the Applicant made a payment of £200.00 to the Second Respondent, which was the balance of the first three months' rent.

42. The Respondents did not lodge the Applicant's deposit of £1050.00 in a tenancy deposit protection scheme at any time.

43. The Respondents have not registered as landlords with Landlord Registration Scotland in respect of the Property.

44. On or about 6 October 2023, the Respondents entered into a private residential tenancy agreement with the Applicant for the Property with a start date of 7 October 2023.

45. The Respondents did not use the correct form of tenancy agreement for a private residential tenancy and instead used a template for a short assured tenancy, the template for which the First Respondent obtained from the internet.

46. The Respondents collected the keys of the Property from the selling agents on 7 October 2023.

47. The Second Respondent travelled to the Property to meet the Applicant's wife for the start of the tenancy on 7 October 2023.

48. The Respondents did not carry out a pre- tenancy inspection or prepare or instruct an inventory of the condition of the Property or its fixtures, fittings or garden prior to the start of the tenancy.

49. The Respondents did not obtain a structural survey of the Property prior to their purchase of the Property.

50. The Respondents did not carry out any repairs or decorate the Property prior to the Applicant and his wife moving in.

51. On 7 October 2023, the Respondents, the Respondents' daughter Miss Cassandra Adikwu and Dr Precious Ogbeiwi were present during handover of the Property from the Second Respondent to the Applicant's wife.

52. All those present at the meeting on 7 October 2023 walked around the Property, including the garden.

53. The doors in the Property were not tested during handover on 7 October 2023.

54. No mould was evident on the walls of the Property on 7 October 2023.

55. The heating in the property was not tested by the Respondents in the presence of the Applicant's wife during handover of the Property.

56. The Applicant and his wife moved into the Property later on the same day on 7 October 2023.

57. During the tenancy, the boiler and central heating in the Property were broken for a period from the start of the tenancy on 7 October until on or about 12 December 2023 when a new boiler was installed on the instruction of the Respondent.

58. From on or around 28 October 2023, mould appeared on multiple walls in the Property.

59. From the time that mould first appeared, the Applicant reported it to the Respondents on multiple occasions.

60. The Respondents did not instruct mould treatment but instructed redecoration of both bedrooms in the Property to be carried out in or about November 2023, which temporarily covered the mould. However, following redecoration, mould reappeared in multiple rooms during the remainder of the tenancy.

61. During the tenancy the Applicant reported to the Respondents on multiple occasions that there were three broken doors in the Property.

62. In or about November 2023, the Respondent's contractor attempted to fix a broken door but the Respondents did not carry out any other repairs to doors in the Property during the tenancy.

63. The Applicant and his wife moved out of the Property on 31 May 2024.

64. The Applicant's tenancy ended on 6 June 2024.

65. Around the end of the tenancy the Applicant carried out some gardening to the front garden but further gardening was required to bring it back to the condition at the start of the tenancy.

66. No inventory check was carried out by the Respondents after the tenancy ended.

67. After the tenancy ended the Respondents purchased items and instructed the following work to be carried out by contractors at the following costs to the Respondents:

    67.1. Mould treatment at a cost of £80.00;

    67.2. Cost of paint and assorted items purchased by the Respondents from B&M and Homebase at a total cost of £320;

    67.3. Decoration and repainting by OS Property Care at a cost of £600;

    67.4. Replacement and fitting of a new door by OS Property Care at a cost of £140.00;

    67.5. Cleaning flat after repairs by a friend at a cost of £20.00;

    67.6. Trimming and cleaning of front and back garden by a gardener at a cost of £90.00.

68. The total cost of the work instructed by the Respondent and purchased items totalled £1250.00.

69. The Respondents retained £625.00 from the Applicant's tenancy deposit which represented half the cost of the said works and purchased items.

70. The Respondents returned £425.00 of the Applicant's deposit to the Applicant.

71. Because the Applicant's deposit was not lodged in a tenancy deposit protection scheme, the Applicant was unable to use the dispute resolution mechanism provided by such schemes.

Discussion

72. The Applicant asked the tribunal to make an order for payment for the Respondents to pay him £625.00, less an amount of £30.00 which he submitted was a reasonable amount for the cost of gardening which he accepted was required at the end of the tenancy.

73. The principal issue in dispute was whether the Respondent was factually and legally entitled to retain £625.00 of the Applicant's tenancy deposit, which

represented a 50 per cent proportion of the costs of remedying alleged damage caused by the Applicant to the Property during the tenancy and for gardening (all as itemised in the letter sent by the First Respondent to the Applicant, bundle pages 74-75); or whether the amount retained should be returned to the Applicant as claimed.

74. The tribunal's findings in fact and discussion which follows is restricted to evidence and the parties' submissions on that evidence relevant to the principal issue in dispute and matters necessary to determine that issue.

75. Prior to and during the hearing, both parties lodged and sought to lead evidence and make submissions which were irrelevant to the issue in dispute, including evidence from both parties about the current occupants of the Property; submissions from the Applicant about the Second Respondent's alleged contact with the current occupants of the Property during the hearing; and evidence from the Respondents that the Applicant and his wife had had a paying lodger at some point during the tenancy. It was not necessary for the tribunal to consider those matters or related submissions about the credibility and reliability of witnesses on these matters in order to determine the issue in dispute.

76. There was no dispute that:

    76.1. a tenancy deposit of £1050.00 was paid by the Applicant to the Respondent prior to the start of the tenancy of the Property;
    76.2. the Respondents failed to lodge the Applicant's deposit in a tenancy deposit protection scheme at any time;
    76.3. the Respondents retained £625.00 of the Applicant's tenancy deposit following the end of the tenancy; and returned £425.00 to the Applicant; and
    76.4. that the Applicant was unable to use a tenancy deposit dispute resolution scheme to challenge the proposed retention.

77. The Respondents submitted that they were legally entitled to retain £625.00 from the Applicant's tenancy deposit due to the condition of the Property at the end of the tenancy relative to the condition of the Property at the start of the tenancy, fair wear and tear excepted, with reference to the list of deductions in the said letter from the Respondents to the Applicant (pp. 74-75), with some supporting invoices (pp. 80, 84-87). The Respondents relied on Clauses 6, 13 and 14 of the tenancy agreement as providing a contractual basis for the said retention:

    77.1. Clause 6 – *at the expiry or termination of the lease the landlord is entitled to use all or part of the deposit to meet any outstanding sums, accounts due by the tenant, the cost of repairing or replacing any of the fittings and fixtures which have been broken, damaged or lost and the expense of making good any failure by the tenant to fulfil any of the other conditions of this lease. …*

77.2. Clause 13 [which is irrelevant in relation to the issues in dispute]; and

77.3. Clause 14 – *'The tenant agrees to take reasonable care of the accommodation and any common parts and in particular agrees to take all reasonable steps to: i/ keep the accommodation aired and heated…'*

78. The Applicant disputed that the Respondent was entitled to retain any sums in respect of scraping the walls and treatment with anti mould, cost of paints and accessories, payment of labour for painting, purchase of new door and repair of other doors and cleaning the flat after repairs. Although the Applicant accepted that he was contractually responsible for some gardening costs, he submitted that a more reasonable cost for the gardening would be £30.00 as opposed to £45.00 (half of the actual £90.00 cost incurred by the Respondents).

79. There was some oral evidence from both parties' witnesses about the condition of the Property at the start of the tenancy on 7 October 2023 but there was no contemporaneous inventory. In fact, no inspection of the Property was carried out by or on behalf of the Respondents. The Property was handed over to the Applicants on the same day as the Respondents collected keys for the Property following the legal date of entry the day prior. The extent of the evidence was a limited number of undated photographs which were not referred to in oral evidence and were of little assistance to the tribunal and one video of the initial meeting at the Property on 7 October 2023 with the Second Respondent, Mrs Adikwu, her daughter Miss Cassandra Adikwu, Dr Precious Ogbeiwi and the Applicant's wife. The videos were very short and did not give a full record of the condition of the walls, ceiling and doors in the Property. There were no images of the garden at the start of the tenancy.

80. In relation to the mould issues the tribunal did not find that the Respondent had established that the Applicant was responsible for the mould or the cost of the treatment and re-decoration he incurred. The Respondents did not carry out any structural survey prior to purchase of the Property. The tribunal accepted the Applicant's evidence that mould appeared on the walls and ceiling within weeks of start of the tenancy, that it was reported to the Respondents and that it was not resolved during the tenancy. The tribunal accepted the evidence from both parties that the heating was broken for three months in the winter months from October to December 2023. Although there was no expert evidence, the lack of adequate heating in the Property during this period (which the Respondents had a legal duty to repair in terms of the repairing standard) may have caused or contributed to the mould.

81. The tribunal therefore does not accept that the Respondent was factually or legally entitled to make any deductions from the Applicant's tenancy deposit for mould treatment or re-decoration of walls and ceilings. That deals with all proposed deductions on the list relating to wall treatment redecoration.

82. In relation to the internal doors, no pre-tenancy inspection or inventory check was carried out by the Respondents. The tribunal preferred the evidence of the Applicant that the doors were broken as at the date of entry. The short video taken during the initial meeting during handover of the Property on 7 October 2023 does not assist as it does not show the condition or operation of any doors. The tribunal also accepts the Applicant's evidence that defects with a number of doors were reported by the Applicant to the Respondents during the tenancy. The Respondent's evidence about post-tenancy costs he incurred included a £140.00 invoice from Property Care (bundle, p52) which states that one door was replaced. There is no evidence that any damage to this door was caused by the Applicant or his wife during the tenancy.

83. The tribunal therefore does not accept that the Respondent was factually or legally entitled to make any deductions from the Applicant's tenancy deposit for replacement of an internal door.

84. In relation to the garden the Applicant accepts that some gardening to the private front garden was required at the end of the tenancy but he contended that it should be restricted to £30.00 based on the price he had been quoted by another contractor. There is no gardening invoice from a contractor in the Respondent's documents. Ther is an invoice on page 58 for purchase of a cordless hedge trimmer. However, we accept the First Respondent's oral evidence that a gardener was paid £90 for gardening (bundle, p74) and that he sought to deduct half of this (£45.00) from the Applicant's deposit.

85. It is not disputed by the Applicant that some further gardening was required to return the garden to the state it was in at the start of the tenancy, or that the Applicant is contractually liable in terms of the tenancy agreement in meeting the cost. In fact, the Respondents only sought to pass on half the cost of £90.00 incurred. The tribunal accepts that the £45.00 deduction made by the Respondent from the Applicant's tenancy deposit is reasonable.

86. In relation to the proposed £10.00 deduction for cleaning, the evidence from the Respondent was that this related to cleaning after the repairs were carried out inside the Property, so as the tribunal does not accept that the Respondents had a proper basis for making a deduction for the repairs. It follows that the Respondents have not established that the cleaning costs should be borne by the Applicant.

87. Having made its findings in fact on the basis of the evidence it accepted, the tribunal determined that the Applicant has proved that the Respondents should pay the Applicant the sum of £580.00, in respect of the £625.00 balance of the Applicant's tenancy deposit which was retained by the Respondents, less £45.00

for end of tenancy gardening costs for which the Applicant is liable. The tribunal made an order for payment by the Respondents to the Applicant for the said sum of £580.00.

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.

Ms Susanne L. M. Tanner K.C.
Legal Member/Chair

15 October 2026