



**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/19/1110

Re: Property at 9 Arniston Road, Dunfermline, KY11 8EU (“the Property”)

Parties:

Mr Dean McKenzie, Unit 1 Primrose Lane, Rosyth, KY11 2SF (“the Applicant”)

Mr Ryan Millar, Mrs Jennifer King, Unknown, Unknown (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order be granted in the sum of £6003.36.

- **Background**

This is an application in terms of Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 for a payment order for £6003.36 comprising £3423.36 rent arrears and £2580 property damage. Along with the application the Applicant lodged copy tenancy agreement, copy AT5 x 2, copy rent statement, copy quote for repairs, copy email correspondence with Respondents and copy inventory and final check out inspection report. Sheriff Officers attempted to serve papers in connected with the application on the Respondents but advised that the Respondents no longer resided at the address on the application. A previous Case Management Discussion set down for 7 June 2019 required to be cancelled due to the Respondents not getting notice of the application. The Applicant’s representative was advised of the option to serve notice of the application on the Tribunal Website and she confirmed by email on 15 May 2019 that she would wish to proceed with this. Notice of the application and details of the Case Management Discussion were detailed on the First-tier Tribunal for Scotland Housing and Property Chamber Website between 31 May 2019 and 5 July 2019.

No contact has been made by the Respondents and no written representations lodged.

- **The Case Management Discussion**

The Case Management Discussion took place on 5 July 2019. A previous Case Management Discussion note was issued. At the Case Management Discussion the Respondents did not attend and the Applicant was represented by Jackie Barr of Streets Ahead Scotland Limited. The Tribunal went through all the papers before it. There was discussion regarding the original deposit of £975 held by Safe Deposits Scotland. The Applicant's representative confirmed that the deposit had already been used to cover costs associated with the tenancy which were not covered by the current application. Those costs related to cleaning, removal of items and replacing of the stair carpet. There were other costs too. Receipts/invoices could be provided in respect of these costs if required. The Applicant's representative confirmed that no further payments had been made by the Respondents. She had dozens of pictures showing damage to the Property. She had also received a letter from the Respondent's employers confirming that he should earn more than enough to meet his rent obligations. Discussion took place about the quote from MG Maintenance Services dated 3 April 2019. The Applicant's representative confirmed that the work had now been carried out and the receipts/invoices matched the amount on the quote of £2580. The Tribunal advised that it would prefer to see the receipts/invoices rather than a quote as these were the best evidence. The best course of action would be for the Case Management Discussion to be adjourned and a new date set as a formality for at least four weeks from now. The Applicant's representative should send in the relevant invoices/receipts and the Tribunal could then issue its decision and order. The continued Case Management Discussion could then be cancelled. The Legal Member advised that she was about to go on annual leave but would deal with the decision as soon as possible on her return. Receipts and Invoices were emailed by the Applicant's representative to the Tribunal on 10 July 2019 providing evidence of the cost of the relevant repairs.

- **Findings in Fact**

1. The Applicant and Respondents entered into a tenancy agreement for 12 months from 23 August 2017 until 23 August 2018 and the tenancy would continue on a monthly basis thereafter.
2. Rent was payable at the rate of £825 per calendar month.
3. The Respondents vacated the Property on 5 March 2019 owing £3423.36 in rent.
4. The tenants were obliged in terms of clause 4.1 of the tenancy agreement to replace or repair (or to pay the cost of at the option of the Landlord) any of the contents which were destroyed, damaged, removed or lost during the tenancy and were liable for the cost of making good any damage or cleaning found necessary at the end of the tenancy, fair wear and tear excepted. The Respondents are due to make payment to the Applicant in the sum of £2580 in this regard.
5. The Applicant has previously used the £975 deposit for other repairs arising out of the tenancy.

- **Reasons for Decision**

Documents including a rent statement, a copy of the tenancy agreement and quotes for the relevant repairs and cleaning were provided by the Applicant. Further invoices were submitted by the Applicant's representative on 10 July 2019. There was nothing before the Tribunal disputing or challenging the Applicant's evidence. Details of the Case Management Discussion on 5 July were notified to the Respondents on the Tribunal Website but the Respondents did not respond. The Tribunal considers that the procedure followed has been fair.

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- **Decision**

To grant a payment order for payment by the Respondents to the Applicant in the sum of £6003.36

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.



Legal Member/Chair

19 July 2019

Date