



**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/19/1833

Re: Property at 27 Glasgow Road, Wishaw, ML2 7PG (“the Property”)

Parties:

**Mr Kevin Timmons, Mrs Catherine Timmons, 15 Duncryne Avenue, Mount
Vernon, Glasgow, G32 0RJ (“the Applicant”)**

**Mr William Robert, 54 Stewart Crescent, Newmains, Wishaw, ML2 9DJ (“the
Respondent”)**

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £2,911.42 to the Applicant in relation to rent arrears and other costs arising from the tenancy.
2. The application contained:-
 - a copy of the tenancy agreement,
 - a rent statement,
 - invoice for lock change,
 - invoice for cleaning and mould work, and
 - check in and check out photos

3. The Applicant's agent Colette Lloyd of Independent Estates appeared for the Applicant. There was no appearance from the Respondent.
4. Notice of the Hearing had been served by sheriff officers on 10 July 2019. I was satisfied that the Respondent had been served with notice of today's case management discussion and I was therefore prepared to proceed with today's case management discussion in his absence.

Hearing

5. The Applicant referred me to the tenancy agreement between the Applicant and the Respondent. She confirmed that clause 6 set out that rent was payable in advance at £240 per month. The tenancy had commenced on 4 July 2016. The Respondent was no longer residing in the Property. They had served a notice to quit on him. He had emailed them in January to advise that he would be leaving the property. He left on 8 January 2019. He did not return the keys.
6. She referred me to the rent statement showing all payments made and the outstanding rent due. She advised that the current arrears are still those set out in the application namely £2,311.42. She advised that he had previously received benefits these had been paid direct to the letting agents and while there were some small arrears it was manageable. However last year he got a job and at that stage he stopped paying his rent. She referred me to the rent statement and noted that there had been some small payments of £70 towards rent but the last payment had been for £70 on 10 May 2018. No further payments had been received since then.
7. In respect of seeking costs to have the locks changed, she advised that the respondent had not returned the keys and the applicant had had to get the locks changed. She referred me to the invoice submitted in support of these costs for £140. She considered that this cost was allowable in terms of clauses 9 and 15 of the tenancy agreement. She considered that failing to return the keys was not taking reasonable care and a breach of the tenancy agreement.
8. In relation to the costs for cleaning and mould, she referred to the check in and check out inventory photos she had submitted with the application. Today she brought coloured copies of these photos, and I agreed to allow these coloured copies to be lodged.
9. She advised that the property was extremely dirty and grubby and covered in dog hair when they recovered it. She advised that the tenant had had a Rottweiler dog in the property, although there had been no permission for this. She advised that there was dog hair all over the property, including the floor, in the appliances in the kitchen, in the bathroom including in the shower. There was a broken blind and a broken window. There was electric heating in the property and there was considerable mould growth in the property.

especially the kitchen. She referred me to the photos in support of these matters. The property had needed to be deep cleaned. The appliances had to be deep cleaned. The property had needed to be cleaned and treated with chemicals to address the mould. The window had to be replaced. The blind had to be replaced. She submitted that it was accepted that there were certain matters considered to be fair wear and tear, for example painting. The applicant had not claimed for painting works, the whole property had had to be repainted however. The works claimed for were not fair wear and tear and she sought compensation for these matters. She referred to the invoice submitted for cleaning and mould treatment totalling £700 which had been submitted by her. She advised that this work had been carried out and this invoice had been paid to cover these works.

10. She advised that the deposit of £240 had been deducted from the sums due to the applicant.

Findings in Fact

11. The Tribunal found the following facts to be established:
12. A tenancy agreement was entered into between the Applicant and the Respondent for the Property and existed between the parties. It was entered into on 4 July 2016.
13. The tenancy ended on 8 January 2019.
14. Clause 6 of the tenancy agreement provided that rent was £240 per calendar month in advance. Rental payments are due on the 4th day of every calendar month.
15. The rental statement showed amounts due each month, amounts received, and rent outstanding.
16. That the rental statement showed total rent arrears outstanding as at 8 January 2019 being £2311.42.
17. That there had been no payments towards the rent arrears other than those shown on the rent statement.
18. Clause 9 of the tenancy agreement deals with the contents. It includes a condition that "*the tenant agrees to replace or repair to pay the cost any of the contents which are destroyed, damaged, removed or lost during the tenancy, fair wear and tear excepted. The costs involved in making good any damage or cleaning found necessary may be deducted by the landlord from the deposit.*"
19. Clause 15 of the tenancy agreement provides that the "*the tenant agrees to take reasonable care of the accommodation and any common parts, and in*

particular agrees to take reasonable steps to: - 1. Keep the accommodation aired and heated; ...”

20. Clause 22 of the tenancy agreement provides that “*The tenant agrees not to keep any pets without permission... and any pet will be kept under supervision... to ensure that that it does not cause deterioration in the accommodation...*”
21. That the locks had to be replaced as the keys for the property were not returned at the end of the tenancy.
22. That on or around 8 January 2019 the property was found to be dirty and grimy, and the kitchen and bathroom appliances were dirty and grimy. That the property and appliances in the property were covered in dog hair.
23. That on or around 8 January 2019 there were areas of mould in the property including in the kitchen ceiling.
24. That on or around 8 January 2019 there was a broken window in the property
25. That on or around 8 January 2019 there was a broken blind in the property.
26. That on around 26 February the property was cleaned and treated for mould by Pestservice Ltd
27. That on around 14 January 2019 the lock at the property was changed by Cowie Property Maintenance.

Reasons for Decision

28. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to actions arising from a number of tenancies, including those arising under an assured tenancy within the meaning of section 12 of the Housing (Scotland) Act 1988.
29. As this tenancy is an assured tenancy I am content that I have jurisdiction to deal with this case.
30. There was no response or appearance from the Respondent.
31. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so. There was submitted a rental statement showing the arrears due and additional information was provided today by the Applicant as to the current rent arrears outstanding as at today's date.
32. Other obligations included paying for the costs of any repairs, damage and cleaning required; taking reasonable care of the property; keeping it aired and ventilated; and ensuring that any pets do not cause damage to the property.

The property had patches of mould in it, and the agent considered that this was as if it had not been aired. It was found to be dirty and grimy and covered in dog hair. There was a broken window and broken blind. These matters all appear to be in breach of the conditions of the tenancy. The check in pictures showed the property to be in good condition. In terms of the tenancy agreement the tenant had bound himself to make good these matters or pay for them. Invoices were submitted in support of these costs. The agents advised that the works had been carried out to the subjects.

33. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sought.

Decision

34. I grant an order in favour of the Applicant for TWO THOUSAND NINE HUNDRED AND ELEVEN POUNDS FORTY TWO PENCE (£2,911.42) STERLING against the Respondent.

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.

Melanie Barbour

Legal Member/Chair

13. 8. 19

Date