



**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/20/0348**

**Re: Property at 12 Craigston Park, Dunfermline, Fife, KY12 0XZ (“the Property”)**

**Parties:**

**Mr Michael Sutherland, 7 Wallace Drive, Crossgates, Fife, KY4 8EJ (“the Applicant”)**

**Mr Ramaios Pappas, 9 Fieldfare View, Dunfermline, Fife, KY11 8FY (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £2,185.**

**Background**

By application, received by the Tribunal on 31 January 2020, the Applicant sought an Order for Payment against the Respondent in respect of unpaid rent and compensation for the cost of cleaning, decorating, gardening and carrying out repairs to the Property.

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties commencing on 28 August 2017 at a rent of £800 per month, the lease, if not ended on 28 February 2018, continuing on a monthly basis until terminated by either party giving no less than two months’ notice to the other Party. In the lease, the Respondent accepted the accommodation as being in good and tenantable condition and agreed to maintain the accommodation, its fixtures and fittings and any items set out in the inventory in good condition and in a reasonable state of repair

throughout the term of the tenancy and to leave same at the termination of the tenancy in the same state and condition as they were in at the commencement date.

The Applicant also provided the Tribunal with copies of an Inventory and Check-In Report dated 24 August 2017, extending to 80 pages, an Exit Report dated 27 January 2020, a Rent Statement indicating that two months' rent was outstanding as a result of the Respondent having failed to give two months' notice but that one month's rent had been recovered through payment of the deposit to the Applicant, and Invoices in respect of cleaning, decorating, gardening and repairs at the Property, totalling £1,945.63. The total amount claimed was, therefore £2,745.63.

On 1 July 2020, the Respondent made written representations to the Tribunal. He stated that the tenancy should have been converted into a Private Residential Tenancy, as the Applicant had asked him in February 2018 to move to a private arrangement. There had been repairs issues during the tenancy, arising from a leak from the bath, which had not been dealt with by the Applicant, and the house had not been painted immediately before the start of the tenancy. The Respondent was of the view that the house had been left in exactly the same condition as it had been when the Respondent and his family moved in.

### **Case Management Discussion**

A Case Management Discussion was held by way of a telephone conference call on the morning of 3 August 2020. The Parties both participated in the conference call and the Respondent had the assistance of a Greek interpreter, Ms Marsella Prontani.

The Tribunal Chair started by advising the Respondent that there had been no obligation on the Applicant to convert the lease into a Private Residential Tenancy. The Applicant stated that the only involvement of agents had been to draw up the documentation, take up tenant references and prepare the Inventory and Check-In Report. Thereafter, the Applicant and his wife had managed the letting themselves.

The Tribunal Chair also told the Respondent that the Tribunal would not be considering any repair issues that arose during the tenancy unless they had an impact on the sums the Applicant was seeking to recover in the present case. The Applicant told the Tribunal that he had accepted responsibility for meeting the cost of the repair to the kitchen ceiling following the leak from the bathroom above.

The Tribunal then considered the various heads of claim:

### **Rent**

The Respondent told the Tribunal that his wife had intimated verbally to the Applicant in September 2019 that they would be leaving the Property. The Applicant accepted that he had indicated to the Respondent that he would have no objection to the Respondent leaving but told the Tribunal that no definite intention to leave had been expressed and no date had been indicated. As far as the Applicant was concerned, the first he had known of the definite intention to move out had been a text message of 11 January 2020 and the Respondent had handed back the keys 15 days later.

### **Repairs and Cleaning**

At the Case Management Discussion, the Applicant told the Tribunal that he was content to forgo the claim in respect of the repair and replacement items in the Invoice of 22 February 2020 (totalling £85.63), but not the cost of cleaning (£200). This had been calculated on the basis of 20 hours work at a nominal rate of £10 per hour. The Respondent told the Tribunal that his wife's mother had cleaned the house twice with bleach. He contended that the oven/hob had been coated in grease at the start of the

tenancy, but the Applicant told the Tribunal that the oven/hob had been new. The Respondent also stated that the Applicant's wife had come round to inspect the Property and had said that everything was ok. The response of the Applicant was that his wife had not been allowed into the Property when she had indicated her wish to take photographs of its condition.

The Respondent accepted that the photographs taken at the Exit Inspection and provided by the Applicant were accurate, but was of the view that they showed the Property as being in the same condition as it had been at the start of the tenancy.

### **Redecoration**

The Respondent told the Tribunal that the Property had not been freshly painted when the tenancy began. This was not disputed by the Applicant, who told the Tribunal, however, that the Respondent had tried to touch-up the damage to decoration caused during the tenancy by covering it with gloss paint. This was entirely unsuitable for walls which had been emulsioned and was suitable only for windows, skirtings and door woodwork. Consequently, the affected areas had to be prepared before they could be repainted with emulsion paint. The Respondent told the Tribunal that he had not used gloss paint.

### **Garden**

The Applicant stated that the garden had been very overgrown when the Respondent vacated the Property. A skip had been required to remove the garden waste after the front and rear gardens were restored. The Respondent's view was that the garden had been left in basically the same condition at the end of the lease as it had been at the beginning. The grass was a bit longer, but not a lot longer.

### **Reason for Decision**

Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 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 and that it would decide the application without a Hearing.

The Tribunal considered all of the evidence, written and oral, in respect of each of the heads of claim in the application:

### **Rent**

The Tribunal noted the evidence given by both Parties on the issue of notice and decided, on the balance of probabilities, that the discussion referred to by the Respondent as having taken place in September 2109 did not amount to notice to terminate the lease. The lease did not stipulate that such notice must be given in writing, but the evidence suggested a conversation between the Parties which fell short of giving notice to terminate the lease. No date had been given by the Respondent. Accordingly, the Tribunal decided that due notice had not been given in September 2019 and that the earliest date on which it could be said to have been given was 11 January 2020. This was after the rent payment due on 28 December, so, as the lease continued on a monthly basis, the two month period of notice provided for in the lease did not commence until 28 January 2020 even though, by then, the Respondent had vacated the Property. The view of the Tribunal was, therefore, that

rent was due up to 28 March 2020. As the rent was payable in advance, that meant that the payments due on 28 January and 28 February 2020 were recoverable by the Applicant. The Applicant had received one month's rent back from the Tenancy Deposit Scheme, so one month, £800. was due by the Respondent.

### **Repairs and Cleaning**

The Tribunal compared the photographs and condition comments in the Check-In Report of 24 August 2017 with those in the Exit Report of 27 January 2020, the day after the Respondent and his family handed back the keys to the Property.

The Check-In Report contained a number of observations, including cracked floor tiles in the kitchen and a number of minor decoration items but stated that, apart from those observations, the condition was "Good Overall" and cleaned to a professional standard. This included the oven and hob, although there was a crack in the oven door handle and the door itself had movement from its hinges.

The Exit Report described the overall cleanliness of the Property as "poor" and the photographs showed that the oven/hob and extractor fan were coated in grease and had not been cleaned. There was evidence suggesting that children had drawn on walls and radiators and attempts had been made to "touch up" the decoration throughout the house, but the photographs showed that the colours were not matched and the Report stated that the touch-up work to walls had been done with gloss paint, suitable for window and door woodwork, rather than emulsion. The shower unit had not been cleaned and the general condition of the Property was dirty. The Report indicated that a deep clean was required, including cleaning of one of the bedroom carpets.

Having compared as closely as possible the photographs taken immediately before the start of the tenancy and immediately after it ended, the view of the Tribunal was that the Respondent had not complied with the obligation to leave the Property in the same state and condition as it was at the commencement date. This was the undertaking given in the lease. Accordingly, the Tribunal determined that the cost of cleaning claimed by the Applicant was justified, that cost being £200.

### **Redecoration**

The sums claimed by the Applicant included £950 in respect of redecoration of the entrance area, living room, kitchen, stairway, back bedroom and front bedroom. The Tribunal accepted from the photographs in the Exit Report that such redecoration would have been required to bring the Property up to a reasonable standard for a new tenant, partly because of the Respondent's efforts to cover up areas of damage and deterioration caused during the tenancy. The Tribunal preferred the evidence of the Applicant that, in doing this, the Respondent had used gloss paint and had also not matched the colour. Using gloss paint would have made the subsequent redecoration more difficult. The Tribunal noted, however, that it was accepted that the Property had not been freshly painted when the Respondent moved in and took into account also that the passage of two and a half years with a family living in the Property indicated that significant redecoration would have been required at the end of the tenancy, even if the deterioration had been entirely due to fair wear and tear. Accordingly, the Tribunal decided that 50% only of the redecoration cost (£475) should be met by the Respondent.

### **Garden**

The Exit Report showed that the external area was very unkempt and the front and rear garden very overgrown, particularly with what appeared to be ivy, and it was clear to the Tribunal that a considerable amount of work would be required to restore it to the condition it was in when the Respondent moved in. At the time of the Check-In Report, both front and rear gardens were neat and tidy and the view of the Tribunal was that the Respondent had failed to maintain the garden in the condition it was at the start of the tenancy. Accordingly, the Tribunal decided that the sums claimed in respect of gardening (£560) and the hire of a skip (£150), which the Applicant told the Tribunal had been required to remove the garden waste, should be paid by the Respondent.

### **Conclusion**

The Tribunal determined that the Respondent should be liable to pay to the Applicant £800 in respect of rent, £200 for cleaning, £475 towards redecoration costs, £560 for gardening work and £150 for skip hire, the total sum being, therefore, £2,185.

### **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

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**Legal Member/Chair**

**3 August 2020**  
**Date**