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

Chamber Ref: FTS/HPC/CV/19/2106

Re: Property at Oakley House, St Marys Street, Kirkcudbright, DG6 4AH ("the Property")

Parties:

Sir David Hope-Dunbar, Banks House, Kirkcudbright, DG6 4XF ("the Applicant")

Ms Niomi Brough, 6 Rutherford Close, Kirkcudbright, DG6 4HW ("the Respondent")

Tribunal Members:

Andrew Upton (Legal Member) and Elaine Munroe (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment by the Respondent to the Applicant in the sum of TWO HUNDRED AND THREE POUNDS AND TWENTY SIX PENCE (£203.26) STERLING should be granted.

Findings in Fact

The Tribunal made the following findings in fact:-

1. The Applicant was the landlord, and the Respondent the tenant, of the Property under and in terms of a Short Assured Tenancy Agreement dated 10 February 2014 ("the Tenancy Agreement").

2. At the commencement of the Tenancy Agreement, there were a number of fixtures for wall hangings affixed to the walls within the Property.

3. At the commencement of the Tenancy Agreement, there was a door hanging in the doorway between the WC/utility room and the vestibule leading to the kitchen.

4. During the tenancy, the Respondent hung between 8 and 16 pictures on walls throughout the Property.

5. During the tenancy, the Respondent paid £12 per calendar month to a gardener to keep the garden neat and tidy.

6. The Respondent gave notice to quit the Property to the Applicant in mid-March 2019.

7. The Tenancy Agreement terminated by agreement on 29 April 2019.

8. The Respondent made arrangements with Mr Graham Nichol, including the hiring of a van, to attend at the Property on 27 April 2019 to remove and clean out the Property.

9. The wife of the Applicant wrote to the Respondent by email on 25 April 2019 to enquire when the Respondent would be carrying out the necessary works to comply with her obligations under the Tenancy Agreement. The Respondent replied confirming that arrangements had been made to attend on 27 April 2019 for that purpose.

10. The Applicant attended at the Property with his employees prior to 27 April 2019 and commenced work to put the Property into good tenantable condition and repair, and tidy the garden. By doing so, he prevented the Respondent from having the opportunity to remedy any wants of repair.

11. During the last week of April 2019, the Applicant's employees:-

    a. removed 154 nails and fixtures from the walls within the Property and repaired the damage made by them;
    b. cut the grass, and gathered and removed items from the garden;
    c. tidied up a pile of wood bark left on the gravel path;
    d. reseeded parts of the lawn;
    e. rehung the door between the WC/utility room and vestibule leading to the kitchen;
    f. emptied the garage and workshop and disposed of the contents;
    g. removed rubbish and broken slats of an old bench from the north east corner of the house, together with a number of bottles; and
    h. applied weed killer to the garden vegetable plot.

12. During the last week of April 2019, the Applicant arranged for Mrs Graham to attend at the Property and deep clean the oven.

13. On 29 April 2019, the Applicant purchased a top-up to zero the deficit in the electricity meter of £28.90.

14. The Respondent would not, at the expiry of the Tenancy Agreement, have:-

    a. removed the nails and fixtures in the walls within the Property or repaired the damage caused by them, insofar as she was responsible for same;
    b. cleaned the oven;
    c. cut the grass;
    d. tidied the wood bark;
    e. rehung the door to the WC/utility room; or
    f. applied weed killer to the garden vegetable plot.

15. The Respondent failed to keep and maintain the Property in good tenantable condition and repair.

16. The Respondent failed to keep the garden neat and tidy.

Findings in Fact and Law

The Tribunal made the following findings in fact and law:-

1. The Respondent required to remove, and repair the damage caused by, 20% of the fixtures in the walls at the Property.

2. At the expiry of the Tenancy Agreement, the Respondent was in breach of clause *Eight* of the Tenancy Agreement.

3. The Applicant suffered loss and damage as a consequence of the Respondent's breach of clause *Eight* of the Tenancy Agreement.

4. The Applicant is entitled to reparation from the Respondent for his loss and damage insofar as same was caused by the Respondent's breach of the Tenancy Agreement.

5. A reasonable estimate of the Applicant's loss and damage caused by the Respondent's breach of the Tenancy Agreement is the sum of £203.26.

Statement of Reasons

1. This application called before the Tribunal for a Hearing on 20 November 2019. The parties were personally present. The Respondent was supported by a Mr James Moffat, who we were told was a friend.

2. In this application, the Applicant seeks payment of £630.48, which he asserts is due by the Respondent as a consequence of her breach of the Tenancy Agreement by failing to leave the Property in a condition commensurate with her due compliance with clause *Eight* of the Tenancy Agreement. He claims that his losses are as set out in an invoice dated 15 May 2019. At the previous

Case Management Discussion, the entries listed on that invoice were designated letters, which lettering was referred to throughout the Hearing. That lettering is as follows:-

A – Remove 154 nails and fixtures from walls and make good, and paint walls

B – Clean (hob and) cooker

C – Cut grass, mow lawn and gather rubbish from garden and remove

M – Tidy up wood bark from path and remove from site

D – Reseed lawn after boat, pool and bouncing frame

E – Rehang downstairs WC door, after cleaning door

F – Empty garage and workshop and dispose of contents (in line with SEPA requirements – delivery to Castle Douglas Waste Disposal Facility)

G – Remove rubbish and old bench/broken slats from north east corner of house plus 2 loads of bottles

H – Weed killer to garden vegetable plot (twice)

I – Deficit on electric meter

J – VAT @ 20%

This same lettering shall be used throughout this Decision.

3. At the previous Case Management Discussion, the Respondent conceded that items F, G and I (together with VAT on those items) were due to be paid to the Applicant. The value of those items was £165 plus VAT (total £198). We were told that this sum had been paid by the Respondent to the Applicant prior to the Hearing. In addition, item J was no longer in dispute (although the VAT element attributable to J was), but had not yet been paid. As such, the only matters in dispute were items A-E, J and M.

The Evidence

Sir David Hope-Dunbar, Bt.

4. The Applicant gave evidence in support of his application. He confirmed that he had personally visited the Property after the Respondent had vacated and had witnessed the state of repair and condition.

5. The Applicant suggested that the import of the Note from the Case Management Discussion was that the Respondent had admitted liability for all of the costs claimed. That did not accord with the Tribunal's view of the Note. Rather, it was the Tribunal's view that the Respondent had accepted that responsibility for the condition of certain of the items in the invoice were her responsibility, but that the work claimed for was not, in fact, required. As such, the Applicant required to prove his claim in respect of items A-E, J and M.

6. The Applicant spoke to each of the items in turn:-

A. The Applicant produced a tub of wall fixings, including plasterboard fixings, rawl plugs, screws, picture hooks and nails. A photograph of this tub and fixings had been produced. The Applicant stated that the contents of the tub had been removed from the walls within the Property; specifically from eight rooms and two passages. He spoke to a five stage process of attending to this issue: (i) remove the fixing from the wall; (ii) fill the resultant hole with appropriate filling compound; (iii) sand the area smooth; (iv) mix paint; and (v) paint the area. He suggested that the sum sought for this process of removing 154 nails and fixtures, being the sum of £154, was reasonable. He confirmed that this work had been carried out by his own maintenance team.

B. The Applicant tendered a letter from a Mrs Graham in which the said Mrs Graham asserted that she had attended at the Property and cleaned the cooker in return for payment of £30. The receipt of that letter was unopposed by the Respondent, and the Tribunal allowed that to be received. The Applicant spoke to Mrs Graham having attended at the Property and cleaned the cooker. He spoke to Mrs Graham having been paid £30 for doing so.

C. The Applicant spoke to the garden being in a general state of untidiness. He directed the Tribunal to a series of photographs taken at the Property as evidence of the condition. He said that the cost sought of £55 was reasonable. He confirmed that this work had been carried out by his own maintenance team.

M. The Applicant spoke to there being wood bark on the gravel path leading to the Property. He directed the Tribunal to a two photographs which appeared to show a pile of tree bark on the path adjacent to a wall. He stated that this pile was present as shown in the photograph when the tenant vacated. It had not, he said, been collated by him or his contractors into the photographed pile. He said that the cost sought of £35 was reasonable. He confirmed that this work had been carried out by his own maintenance team.

D. The Applicant spoke to the garden having areas of lawn which had turned brown due to the presence of a boat, a pool and a bouncing frame. He said that these areas required to be re-seeded. He said that

the cost sought of £30 was reasonable. He confirmed that this work had been carried out by his own maintenance team.

E. The Applicant stated that the door into the downstairs WC/utility room was not hanging on its hinges when the Property was returned to him. He said that the door was found in the garage. He commented that he had never previously been able to let a property where a room containing a toilet did not have a door. He described the WC/utility room as being located adjacent to the kitchen; accessed by way of a small vestibule area. He said that the door was hanging when the Property had been let. He said that the cost sought of £27.50 was reasonable. He confirmed that this work had been carried out by his own maintenance team.

J. The Applicant confirmed that the VAT figure had been calculated on all items specified in the invoice. He accepted that it was for the Tribunal to determine what sum was recoverable in respect of VAT, having regard to what sums the Tribunal was persuaded to award.

7. In cross-examination, the Applicant accepted that he did not purchase the Property until after the date that the lease was granted. He accepted that his wife, Lady Katharine, had said that she was going to clean the cooker, and stated that she had unsuccessfully attempted to do so.

8. The Applicant confirmed that the work specified in the invoice took place at the end of April 2019. He accepted that the Tenancy Agreement expired on 30 April 2019. He explained that the work had been undertaken because there was no sign of the work being done. He made reference to an email to the Respondent from Lady Katharine dated 25 April 2019, querying when the required works would be carried out and referring to an incoming tenant due to take occupation on 29 April 2019.

9. The Applicant was asked why he had so many photographs of the garden, but no photographs of the fixtures in the walls. He had no explanation, beyond that it had not occurred to him to take such photographs. He confirmed that all of the photographs had been taken during the last week of April 2019. He spoke to informal conversations having taken place with the Respondent during April 2019. He said that the Respondent had moved out of the Property in mid-April 2019, and handed back a key in mid-April. He spoke of two conversations between him and the Respondent in the period between mid-April 2019 and 25 April 2019 during which it was confirmed that the required works had to be completed by the "end of April 2019". He was asked whether he was aware that the Respondent had replied to the aforementioned email of 25 April 2019 to say that arrangements had been made for help to attend at the Property on 27 April 2019 to assist with the works. The Applicant stated that previous assurances of works being undertaken had not come to fruition, and he had no confidence that the required works would be completed by the Respondent.

Alexander Maxwell Graham

10. The second and final witness for the Applicant was Mr Graham. He confirmed that he is 54 years old and is employed by the Applicant as an Estate Maintenance Manager. He has held that position for nearly nine years.

11. The Applicant moved to allow a signed statement of Mr Graham to be received and treated as his evidence in chief. That was not opposed by the Respondent and the Tribunal allowed that to happen. Thereafter, Mr Graham was taken through the invoice items A-E and M:-

    A. Mr Graham spoke to having seen the fixtures in the walls, and been present when they were being removed. He estimated the time to fix the walls at being between a day and a day and a half.

    B. Mr Graham confirmed that his wife had cleaned the cooker. He had seen her do so.

    C. Mr Graham confirmed that the garden was generally untidy and that he had been present during the tidying up works.

    M. Mr Graham confirmed that he had seen the wood chips on the gravel path.

    D. Mr Graham confirmed that he had been present when a paddling pool, trampoline base and boat had been removed from the garden, exposing an area of browned grass.

    E. Mr Graham confirmed that the door to the WC/utility room was not hanging on its hinges. He said that he had found the door in the garage. He was certain that the door had not been in the garage at the start of the tenancy because he had delivered a lawn mower to the Property and placed this in the garage. He did not recall seeing the door in the garage at that time, and was certain that he would recall seeing that.

12. In cross-examination, Mr Graham was referred to his previous signed statement which had been lodged with the application. This was inconsistent with the statement lodged during the Hearing in that the dates when the works were carried out did not match up. One suggested that the works were carried in the last week of April into the first week of May. The other suggested that the works were carried out in the second week of May. Mr Graham confirmed that he could not be certain as to the dates when the works were actually carried out. He confirmed that the Applicant had drafted the statement and asked him to sign it. He said that he recalled doing the works, but relied upon the Applicant to confirm when the works had actually been carried out.

13. Mr Graham was asked whether he was present when the photographs lodged by the Applicant were taken. Mr Graham confirmed that he saw the Applicant

at the Property with a camera, and that he had personally seen the scenes shown in the photographs, but could not say whether he had been present when the actual photographs had been taken. He also confirmed that his wife had cleaned the cooker on the second day of works.

14. At the close of Mr Graham's evidence, the Applicant rested his case. He stated that he intended to leave the Hearing and await the Decision of the Tribunal. It was highlighted to him that he would not, therefore, hear the evidence led, or submissions made, by the Respondent. He confirmed that he understood the import of that, and chose to leave anyway. He stated that his position was that the works had been required and that the costs sought were reasonable. It was a matter for the Tribunal to decide what, if anything, he should be awarded. He then left. The remainder of the Hearing was heard in his absence.

Heather Birnie

15. The first witness for the Respondent was Heather Birnie. She confirmed that she was 61 years old and a Service Leader at a care home. She had held that position for approximately ten years. She is the mother of the Respondent.

16. Mrs Birnie spoke to the condition of the Property at the outset of the Tenancy Agreement in March 2014. She described it as filthy. She recalled black mould in the utility room, needing to scrub the windows with a scrubbing brush, and some areas having the appearance of never having been cleaned. She said that the process of cleaning the Property took approximately a week.

17. Mrs Birnie recalled the Respondent having pictures on the walls. She estimated that there were between 10 and 15 wall hangings throughout the Property during the Respondent's tenancy.

18. Mrs Birnie recalled that the oven required thorough cleaning at the outset of the tenancy. Her opinion was that the oven was left in a clearer condition than it was found in.

19. Mrs Birnie stated that there had never been a door into the WC/utility room.

Niomi Brough

20. The Respondent gave evidence. She said that the Tenancy Agreement was signed on 10 February 2014. She had viewed the property prior to signing the Tenancy Agreement. She said that the condition of the property was much worse when she moved in than it had been during her viewing. She said it was filthy. There was mould. There was damage throughout the Property. She spoke of a leak at the top dormer, which had been temporarily repaired on the

instructions of the Applicant. She said that this issue had only been fixed after the end of her tenancy when the neighbour below reported water ingress.

21. The Respondent spoke to having hired a van for 12 and 13 April 2019 to assist with her first phase of moving out. The Respondent said that she had arranged an overlap between her tenancies to allow time to move her belongings. She said that, on 12 April 2019, whilst in the process of moving out, the Applicant and his wife appeared and walked into the Property without speaking to the Respondent.

22. The Respondent spoke to having hired a van for 26 and 27 April 2019. She sought to lodge a copy of the van rental booking. This purported to show that Graham Nichol had, on 23 April 2019, booked a van for 26 and 27 April 2019. The Applicant was not present to oppose the booking being received. The Tribunal had already allowed the Applicant to lodge productions during the course of the Hearing. In the circumstances, we allowed the booking to be lodged. The Respondent said that the van had been collected on the afternoon of 26 April 2019. On the morning of 27 April 2019, it was driven to the Property. However, on their arrival, there was very little left to do. Much of the works as referred to by the Applicant were substantially complete.

23. The Respondent spoke to having given the Applicant a key to the Property in mid-April 2019. She explained that she had been in an abusive relationship and had changed the locks at the Property. The key given to the Applicant was to ensure, prior to the end of the tenancy, that he had a key for the Property. She said that she believed that he ought to have a key since it was his property.

24. The Respondent stated that the concessions made at the Case Management Discussion had been made without advice and assistance, and with limited knowledge of her legal position. She confirmed that, since the Case Management Discussion, she had had the benefit of advice and assistance from Mr Moffat, although she accepted that it was too late to deal with items F, G and H.

25. Turning to the works:-

    A. The Respondent stated that she had approximately fourteen items hanging on the walls during her tenancy. These were mostly photographs of her children. She stated that, upon taking entry to the Property, a number of fixtures for pictures had been present in the Property. The Applicant had lodged a copy of the sales particulars for the Property in 2014. The Respondent marked the photographs of rooms within her part of the larger property, and highlighted a number of wall hangings visible in those photographs. The Respondent's position was that some of the fixtures left in the Property had been put up by her, but not all of them. Most of the fixtures had been in place when she took occupation.

B. The Respondent stated that she had twice cleaned the oven during the tenancy to the best of her ability. Notwithstanding her attempts to clean the oven, it continued to smoke throughout the tenancy. Her position was that the oven was in no worse condition than it was found.

C. The Respondent stated that the garden clearance had been undertaken before she had an opportunity to do that herself, and prior to the end of the Tenancy Agreement. She spoke to specific items having been disposed of by the Applicant prior to 27 April 2019; specifically a set of football goal nets and a scooter, both belonging to her son. She spoke to paying a gardener £12 per month to keep the garden tidy.

M. The Respondent spoke to have asked the Applicant for permission to lay wood bark on top of the gravel path. He had consented to that. The Applicant had suggested that a tree which had fallen during inclement weather should be chipped for that purpose. The said tree had, in fact, been chipped, and the pile of wood bark seen in the photographs was the outcome of that process. The pile had not been forked out prior to the end of the tenancy.

D. The Respondent stated that the lawn did not require re-seeding. Her position was that the lawn required daylight and would have recovered naturally.

E. The Respondent's position was that the door never hung in the first place. She described the WC/utility room as being a room off the vestibule, which itself led to the kitchen (through one door) and the outside of the Property (through another door). The room contained a toilet which was described as unusable. That was, the Respondent said, because there was a worktop over the top of the toilet which extended beyond the cistern and over the toilet pan. To flush the toilet (which, the Respondent said, was required from time to time to prevent unpleasant smells), one had to squeeze one's hand between the cistern and the worktop to reach the flush button. There was a washing machine and a tumble dryer on top of the worktop. The gas boiler was adjacent to the toilet. The Respondent said that the room had been used principally as a utility room, and not as a WC. As such, the door was not required by the previous owner and had not been reinstated by the Respondent.

26. The Respondent also confirmed that one of the photographs lodged by the Applicant (of what appeared to be a cupboard under a sink) was not a photograph of the Property. She also, to her credit, accepted that even if she had been allowed to carry out the works on 27 April 2019, she would not have carried out certain of the works.

Graham Nichol

27. The final witness was Graham Nichol. He is 56 years old, and works as a quality manager in the food industry. He is the partner of the Respondent of approximately one year.

28. Mr Nichol spoke to having visited the Property on a near daily basis to visit the Respondent. As such, he said that he was very familiar with the Property.

29. Mr Nichol spoke to having hired a van twice to assist the Respondent. The first such occasion was on 12 April 2019, and the second such occasion was on 26 April 2019.

30. Mr Nichol was asked about the events of 27 April 2019. He spoke of arriving at the Property and discovering that the works had already started and were substantially complete. The garage doors had been changed. Items had been removed from the garden, including toys belonging to the Respondent's son. As such, the persons who had been asked to assist with the Respondent's final clearance were stood down.

31. Mr Nichol said that there had never, to his knowledge, been a door into the WC/utility room.

32. Mr Nichol spoke to there being about eight wall hangings within the Property, being mostly photographs of the Respondent's children. He spoke to the front room in the Property being dominated by a book case and bay window, with limited space for wall hangings.

Submissions

33. Before leaving, the Applicant moved the Tribunal to grant the order sought. He relied on his own evidence, the evidence of Mr Graham and the photographs. He said that the condition of the Property was clear, that the Respondent was in breach of her Tenancy Agreement, that he had suffered loss and the sum claimed was a reasonable assessment of his loss. He continued to assert that the Respondent had admitted liability.

34. The Respondent moved the Tribunal to dismiss the Application. She said that the works had been undertaken before the end of the Tenancy Agreement, which prevented her from carrying out the works herself. As such, no sum was due by her. In the event that the Tribunal determined that she was liable for any of the claimed costs, the sum paid already to the Applicant was sufficient payment. Had she known at the Case Management Discussion what she knew now, she would not have conceded items F and G, though she would have conceded item H. As such, the Applicant had already received payment of £135 plus VAT that he ought not to have received, and which the Respondent did not intend to reclaim. That was, the Respondent said, sufficient compensation in the circumstances.

Discussion

35. The starting point of this matter is the Tenancy Agreement. Clause *Eight* is in the following terms:-

"The Tenant accepts the subjects of let as in good tenantable condition and repair and as adequate for the purposes foresaid and shall keep and maintain the said subjects in like good order and condition. The garden and amenity ground pertaining thereto shall be kept neat and tidy throughout the currency of the Lease and free from weeds, rubbish and refuse and any grass shall be kept regularly cut and under control."

36. The Applicant's position is that the Respondent acted in breach of that condition, and that he has been caused loss as a consequence of the Respondent's breach. As such, the question for the Tribunal is in two parts: (i) did the Respondent breach clause *Eight* of the Tenancy Agreement; and (ii) if yes, did that breach actually cause loss to the Applicant (McBryde, *The Law of Contract in Scotland*, 3rd Ed., paragraph 22-16; *Galoo Ltd v Bright Grahame Murray* [1994] 1 W.L.R. 1360). It is against that background that we turn to the evidence.

37. For the most part, the witnesses gave their evidence in a straight-forward manner, and were both credible and reliable. As such, where their evidence conflicted, the Tribunal required to assess the statements of the witnesses and determine which witness was to be preferred on specific topics. The one exception to this was Mr Graham. The Tribunal formed the opinion that he was willing to say anything that the Applicant asked him to, irrespective of whether that formed his actual recollection. Indeed, the inconsistencies between his two statements demonstrate that. We found Mr Graham to be neither credible nor reliable.

38. Having considered the evidence, it is clear that the Tenancy Agreement terminated by agreement on 29 April 2019, being the date on which a new tenant took possession of the Property. That is the date at which the Respondent's compliance with her obligations was to be tested. She had, in the Tribunal's view, until 29 April 2019 to carry out such works as were necessary to comply with her contractual obligations.

39. In fact, it is the Tribunal's view that the Applicant jumped the gun. He reached the view that the Respondent would not carry out any further works and proceeded to have those works carried out prior to the expiry of the Tenancy Agreement.

40. However, having heard the evidence of the witnesses in this case, it is the Tribunal's view that the Respondent's intentions were to remove items left at the Property. Specifically, that relates to items F and G. Those items have already been conceded by the Respondent and she is not now able to withdraw that concession. Having paid for them, she is barred from doing so. Given that her evidence did not suggest that she would have carried out the remaining works specified in the invoice, the Tribunal needs to consider whether those costs were losses caused by her breach of contract.

41. The Tribunal has reached the following conclusions as to the items still in dispute:-

A. Most of the fixtures removed by the Applicant pre-existed the commencement of the Tenancy Agreement. A reasonable estimate of the fixtures that the Respondent was responsible for is 20% of the fixtures claimed for by the Applicant. By failing to remove those fixtures prior to the termination of the Tenancy Agreement, the Respondent was in breach of clause *Eight* of the Tenancy Agreement and caused the Applicant loss. A reasonable sum to award is £30.80, which is 20% of the sum claimed.

B. The Respondent would not have cleaned the oven again. The oven was not in a tenantable condition. It required to be deep cleaned, and the cost incurred by the Applicant in doing so was reasonable. By failing to deep clean the oven, the Respondent was in breach of clause *Eight* of the Tenancy Agreement and caused the Applicant loss. He is entitled to payment of £30.

C. The Applicant did not allow the Respondent to remove items (rubbish or otherwise) from the garden. He did so himself prior to the end of the Tenancy Agreement. As such, he is not entitled to recover costs for such removal. However, the Respondent would not have cut the grass or generally tended the garden. By failing to do so, the Respondent was in breach of clause *Eight* of the Tenancy Agreement and caused the Applicant loss. A reasonable cost is the sum that she paid the gardener each month, which is £12.

M. Had the Respondent completed the work of laying the wood bark in accordance with the Applicant's permission, that would have been a complete answer to this claim. However, that work was not completed by her, the bark was piled adjacent to the path and work to clear it was required. She would not have done so. By failing to do so, the Respondent was in breach of clause *Eight* of the Tenancy Agreement and caused the Applicant loss. The cost claimed by the Applicant is reasonable. He is entitled to payment of £35.

D. The Tribunal is not satisfied that the lawn required re-seeding. It is possible that the lawn would have recovered, and the Applicant ought to have allowed it the opportunity to do so in fulfilment of his duty to mitigate his losses. He is not entitled to recovery under this item.

E. The Tribunal prefers the Applicant's evidence in respect of the door to the WC/utility room. We find it unlikely that the door was not hanging on its hinges at the outset of the tenancy. By failing to rehang the door, the Respondent was in breach of clause *Eight* of the Tenancy Agreement and caused the Applicant loss. We consider that the cost

claimed by the Applicant is reasonable. He is entitled to payment of £27.50.

I. This item was conceded. The Applicant is due payment of £28.90.

J. The Applicant is entitled to VAT at 20% on items A-E and M. The VAT on those items is £29.06.

42. Accordingly, the Tribunal finds that the Respondent was in breach of her obligations under clause *Eight* of the Tenancy Agreement, and has caused loss to the Applicant in the total sum of £203.26. The Tribunal accordingly grants an order for payment by the Respondent to the Applicant in that sum.

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.

A Upton

4 DECEMBER 2019

Legal Member/Chair **Date**