



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) arising out of a tenancy under Section 32 of the Housing (Scotland) Act 1988**

**Chamber Ref: FTS/HPC/CV/18/3191**

**Re: Property at Flat 1/4, 2 Dromore Street, Kirkintilloch, G66 3EJ (“the Property”)**

**Parties:**

**Mr Colin McDonald, 10 The Nest, Norwich, NR1 1GH (“the Applicant”)**

**Mr David Chalmers, formerly at 35 Border Way, Kirkintilloch, Glasgow, G66 2BD and now at Flat 2/2, 14 Southbank Road, Kirkintilloch G66 1NH (“the Respondent”)**

**Ms Jackie Wall, DHW Legal, 2a Catherine Street, Kirkintilloch G66 1LJ (“the Respondent’s Representative”)**

**Tribunal Members:**

**Susan Christie (Legal Member)**

**Decision**

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

**Background**

1. The Application is for payment of a sum of money arising out of a Short Assured Tenancy between the Parties was made on 26 November 2018.
2. A Notice of Acceptance of the Application by the Tribunal made under Rule 9 of the First-Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 as amended (“the Rules”) is dated 14 December 2018.
3. The Application type is stated as having been made under Rule 70 of the Rules.
4. On 11 January 2019, the Tribunal sent a letter to the Parties intimating the day, time and venue of the Case Management Discussion (CMD) and told them they required to attend. Further detailed information was given as to

- what could occur then including the making of a decision in absence should they fail to attend. Written representations were due by 27 January 2019.
5. The said letter of 11 January 2019 along with the accompanying supporting documentation was served on the Respondent by Sheriff Officers.
  6. No written representations were made by the Respondent.
  7. On 25 January 2019 the Parties were advised that a teleconference facility has been put in place for the CMD as there was a need for it given the Applicant's commitments. This avoided the need to consider an adjournment request.
  8. On 29 January 2019 the Respondent's Representative intimated that she would represent the Respondent at the CMD.

### **The Case Management Discussion**

9. All Parties participated in the CMD.
10. The Application details and the documents in support of the Application were discussed in detail with the Parties and discussions took place around in particular the detailed breakdown of the figure sought for payment.
11. It was agreed that the Short Assured Tenancy between the Parties commenced on 8 January 2017 until 8 January 2018 and monthly thereafter until the contractual tenancy came to an end on 8 November 2018.
12. The unpaid rent due was agreed at £1,570.
13. Cleaning and Clearing costs-an invoice had been produced from Blaney Property Services for cleaning and removal of items from the Property and was dated 25 November 2018. The Respondent initially had some resistance to agreeing to pay this sum. The Applicant explained that this was a competitive lower quote he had obtained to keep the cost down and stated he had photo evidence to justify the need for the work which had been done. The Respondent had relied on a third party to clear the Property for him after he left. Ultimately, the Respondent agreed to pay the sum sought after the information had been given to him by the Applicant.
14. The total sum agreed today as due and owing to conclude the matter is £1795.
15. A Deposit of £395 was taken and secured with Safe Deposits Scotland Ltd via the Applicant's letting agent. The Applicant had been told by his agent that steps were being taken to recover this deposit which would in turn reduce the amount due. No written documentation was available to confirm the status of the claim for the deposit today. The Tribunal agreed to set out the position of the Parties in that regard. That is, the Applicant will seek to recover the full deposit and if that is paid out to the Applicant, the sum of £395 will be deemed to have been paid to reduce the debt due.
16. Discussion also took place around other matters to conclude and which was to be noted. The Respondent's address was amended. An agreement was reached verbally that repayment of the debt due would be made by instalments of £27 per week by Standing Order. The first payment to be made on 18 February 2019. If the Respondent kept to that then there would be no need for the Applicant to enforce the Order further.

### **Findings in Fact**

- I. The parties entered into a Short Assured Tenancy which commenced on 8 January 2017 and ended on 8 November 2018.
- II. The Contractual tenancy between the Parties entitles the Applicant to recover sums of money from the Respondent by way of outstanding rent due, cleaning and clearing costs.
- III. The outstanding rent due and owing is agreed at £1570
- IV. The sums due for cleaning and clearing costs is agreed at £225
- V. The total sum due by the Respondent to be paid to the Applicant is £1795.
- VI. The Respondent made a deposit payment of £395 at commencement of the tenancy between the Parties.

### **Findings in Fact and law**

- VII. The sum of £1795 is due and owing by the Respondent to the Applicant.

### **Reasons for Decision & Decision**

The contractual terms of the lease between the Parties entitles the Applicants to recover unpaid rent due and owing from the Respondent along with sums due for cleaning and clearing of the Property.

I was satisfied from the evidence before me today that the sums ultimately agreed were due and owing and accordingly, I made an Order to that effect. An instalment arrangement was agreed verbally between the Parties following on from that.

It is also clear that the Respondent had paid a deposit of £395. If the Applicant recovers that, then the full sum of it should be deducted from the sum due and owing as the Respondent is entitled to have that attributed to the outstanding amount due to reduce his debt.

### **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.**

**S Christie**

**Legal Member/Chair**

**30 January 2019**

**Date**