

**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/19/0432

**Re: Property at 29 Hartrigge Crescent, Jedburgh, Roxburghshire, TD8 6HT
("the Property")**

Parties:

**Mr David Blair, Jedwater Cottage, Jedburgh, Roxburghshire, TD8 6NT ("the
Applicant")**

**Mr Alastair Stewart, Mrs Kerry Martin or Stewart, 15 Lothian Road, Jedburgh,
Roxburghshire, TD8 6LA ("the Respondent")**

Tribunal Members:

Andrew Upton (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the Respondents are liable to make payment to the
Applicants in the agreed sums of (i) ONE THOUSAND SIX HUNDRED AND
TWENTY FIVE POUNDS (£1,625.00) STERLING, and (ii) TWO HUNDRED AND
FORTY FIVE POUNDS (£245.00) STERLING.**

STATEMENT OF REASONS

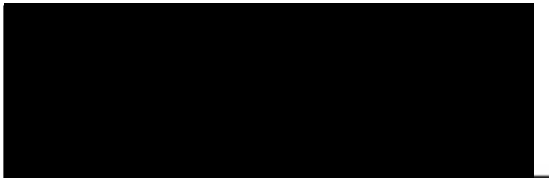
1. This case called before us for a Hearing on 19 July 2019. The Applicants and Respondents were all personally present. The Applicants seek payment by the Respondents of (i) rent arrears, and (ii) damages for breach of the tenancy agreement in the form of costs incurred for repairs and cleaning.
2. It was noted at the outset that, at the Case Management Discussion on 20 June 2019, a number of concessions had been made by both sides, subject to the production of vouching in advance of the Hearing. Accordingly, we first sought an update as to the position. We were told that no payments had been made towards the rent arrears, but that a further £45 was due. Accordingly, the total value of the rent arrears was £1,625.00. That was accepted by the Respondents.

3. The dispute in this case centred on the claim for damages. The Applicants had removed certain items from their claim for damages, such that the total claim in that respect was reduced to £803. The Respondents accepted that they were liable for (i) a door repair, (ii) a toilet repair, and (iii) the replacement of a mirrored door, but disputed all other costs. In particular, they did not accept that the cleaning costs were reasonable.
4. It became clear at this juncture that the Applicants believed that they had lodged significantly more documentation with the Tribunal by email than had actually been received by the Tribunal. An email with two attachments had been received from the Applicants, but the email had been sent with many more attachments. Accordingly, having regard to the Overriding Objective in Rule 2 of the Procedure Rules, we adjourned the Hearing to allow the Respondents to consider the additional documentation and review their position. We also encouraged the parties to discuss whether an amicable resolution could be reached standing the relatively modest sums involved.
5. On resumption, it became clear that both sides were prepared to make concessions to allow the matter to be resolved without the need for evidence to be led. After some additional discussion, the parties agreed the following:-
 - a. The Respondents were in breach of their obligations under and in terms of their tenancy agreement by failing to leave the property in a condition which met their repairing obligations;
 - b. The Respondents were liable for payment of £65 representing the costs of removing rubbish left in the property;
 - c. The Respondents were liable for payment of £40 to replace an internal door at the property;
 - d. The Respondents were liable for payment of £25 to replace a broken toilet cistern in the property;
 - e. The Respondents were liable for payment of £15 to replace a broken mirrored door at the property; and
 - f. The Respondents were liable for payment of £100, being a one-half share of the cost to deep clean the kitchen.
6. On that basis, we determined that the Respondents were liable to make payment to the Applicants in the sum of £1,625.00 in respect of rent arrears for the period from June 2018 until January 2019. Further, we determined that the Respondents were liable to make payment to the Applicants in the sum of £245.00, being damages for their breach of the tenancy agreement. We therefore made an order for payment by the Respondents to the Applicants in those sums.
7. Thereafter, the Respondents lodged a Time to Pay application. In their application, the Respondents made reference to a Trust Deed. After further inquiry, it was determined that both Respondents had entered into a Trust Deed in February 2019, after the end of the tenancy agreement. In the circumstances, it appears that the sums awarded in the order granted relate

to debts due prior to the entering into their Trust Deeds by the Respondents. For that reason, it is a matter for the Respondents' Trustee to determine both what dividend is payable and the rate at which it is paid. Accordingly, we refused the Time to Pay Application. The Applicants will require to lodge a claim with the Respondents' Trustee if they wish to pursue this further.

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