



**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/19/0520

**Re: Property at 15 Pittendrigh Court, Port Elphinstone, Inverurie, AB51 3JB
("the Property")**

Parties:

Ms Fiona Bick, Easter Fonet, Dunecht, Westhill, AB32 7BX ("the Applicant")

Ms Amanda Neilly, 1 Skinner Avenue, Inverurie ("the Respondent")

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

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

Background

This is an Application for a payment order made by the Applicant in respect of the Respondent's tenancy of the property.

The Applicant appeared at the Case Management Discussion on 3rd May 2019 and represented herself. The Respondent was not present and had not sent any written representations to the Tribunal.

The Application and supporting paperwork had been deposited at the Respondent's new address of 1 Skinner Avenue Inverurie on 15th April 2019 by Sheriff Officers. Sheriff officers had been able to contact the Respondent by telephone and she had volunteered her new address to them. The Applicant requested that the Tribunal proceed in absence of the Respondent. As papers had been served on her the



Tribunal granted the request to proceed in absence of the Respondent in terms of Rule 29 of the Tribunal Rules of Procedure.

The Case Management Discussion

The Tribunal had before it the Application, a copy tenancy agreement, a notice in terms of S33 of the Housing (Scotland) Act 1988, an inventory of furnishings, pages of bank statements, a schedule of rental payments and arrears, a schedule of interest due on rent arrears, a document labelled "inventory deductions", a letter from the Applicant to the Respondent dated 23rd January 2019 and two invoices.

Certain pages of the tenancy agreement were missing from the copy, which the Tribunal had seen, but the missing pages along with some copy photographs were emailed by the Applicant and received by the Tribunal during the Case management Discussion.

The Applicant advised the Tribunal that the Respondent had leased the property on 28 January 2017 for a weekly rent of £150, which was paid fortnightly in arrears. The Respondent also paid a deposit of £650. The tenancy agreement terminated with effect from 10 November 2018 and the Respondent left the property.

The Respondent had been unemployed and living on benefits when she entered into the Tenancy Agreement with the Applicant and was paying the rent by means of Housing Benefit, which appears to have been paid directly to the Respondent. Arrears of rent started to build up from August 2017. Further the Applicant understood that Housing benefit payable to the Respondent was reduced around April 2018 and no longer covered all of the rent. The Respondent advised the Applicant that she would try to make up arrears, which were increasing and that she would try to obtain emergency assistance. The Respondent did make small payments of £10 or £20 from time to time but in June or July of 2018 the Respondent advised the Applicant that all of her benefits had been suspended as she had failed to declare a change in circumstances in that she had had a baby. The Applicant advised the Respondent to seek advice on her situation from Gordon Rural Action. At no time after that did the Respondent ever advise the Applicant what her financial position was nor that she had any on going issues with delayed payment of housing benefit. The rent arrears continued and the Respondent left the property in November 2018 without contacting the Applicant at any time before or after her departure to discuss the outstanding rent.

The Applicant was seeking interest on the late rent payments as per the schedule of interest, which she had produced. This request for interest on late payments was based on clause 5 of the tenancy agreement and the amount being requested was £148.89, which was only being requested up to the date on which the Applicant had lodged her Application with the Tribunal and was calculated on the basis that rent was due fortnightly in arrears.

As well as rent arrears and interest on rent, which was said to be overdue, the Applicant was seeking payment for items which been part of the inventory and for costs associated with restoring the property to the condition it had been just before the Respondent entered into the tenancy.

The Applicant noted that after the Respondent had left the property that an electric kettle and a saucepan set were missing, having been in the property at the start of the tenancy and the Applicant was claiming payment for these at the cost of the originals, namely £27 for the two. Further the Applicant was claiming for a missing or broken clothes airer and a broken pedal bin at total costs of £27 on the same basis.

The Applicant indicated that she had required to replace the mattress in the double bed at the property as when the Respondent moved out as she said this was stained and mouldy and the divan base corners were scuffed with the base of the divan drawers broken. She had photographs, which she said, showed the condition and damage of these items and the Tribunal was able to view these. The Applicant was able to save the bed headboard and was claiming payment for the cost of the bed originally being £329. She had the receipt for this and this was produced.

The Applicant was claiming for 4 missing lightbulbs, which were no longer in the property when the Respondent left. These were LED bulbs and for 4 the cost to replace these was £20.

The Applicant advised that she had required to have the carpets cleaned at the property when the Respondent left as these were dirty with food and drink stains and had children's sweets stuck to them. The cost of the cleaning had been £110 and an invoice was produced for this cost. The Applicant referred to the photographs, some of which she said showed the carpets at the property after the Respondent had left the property.

The Applicant advised the Tribunal that the Respondent had left various items behind when she vacated the property and it had to be cleared. This had taken four hours of the Applicant's time and the charge she had included for this covered transport to and from the refuse centre in Inverurie. She had costed this at £15 per hour and was seeking payment of £60.

The Applicant advised the Tribunal that she had required to clean the property by way of an "intensive clean" in order to restore it to the condition which it was in when the Respondent entered into the tenancy agreement and this had taken her 8 hours for which she was seeking payment at the rate of £13 per hour giving a total of £104.

The Applicant further advised that she had required to paint the property, with the exception of the bathroom after the Respondent left, as there were scribbles all over the walls and also some nicotine staining although the Applicant had agreed with the Respondent that she would not smoke inside the property. The amount the Applicant was seeking was £180 for her labour in painting the walls and £20 for paint. The labour charge for the painting was for 12 hours at £15 per hour.

The final payment sought by the Applicant was for replacement door keys as the Respondent had been given two sets of keys but had returned one only. These cost the Applicant some £10.20 to replace.



The Applicant had deducted the Deposit of £650 paid by the Respondent from the sums she was seeking, giving a total of £4538.29 including rent arrears and interest on late rent payments.

Findings in Fact

1.The Applicant and Respondent entered into a tenancy agreement for the property on 28 th January 2017 with rent payable of £150 per week due fortnightly in arrears.

2.A deposit of £650 was paid by the Respondent to the Applicant.

3.Although the rent was initially paid by Housing Benefit, paid to the Respondent who paid the Applicant, arrears started to accrue in August 2017.On or around April 2018 the amount of Housing benefit was reduced and no longer covered all of the rent due by the Respondent to the Applicant. In June or July 2018 the Respondent's benefits were suspended.

4.At no time after her benefits were suspended did the Respondent contact the Applicant to discuss the situation regarding the rent.

5.The Respondent at no time advised the Applicant that her problems paying rent were due to a delay in payment of Housing Benefit.

6.The sum of £4152.20 is due to by the Respondent to the Applicant in respect of rent lawfully due for the property.

7.The sum of £148.89 is due in interest on rent which is late in terms of clause 5 of the tenancy agreement.

8.The Respondent is in breach of clauses 17 and 28 of the tenancy agreement as refuse was not disposed of properly at the end of the tenancy and repairs at the property were required at the end of the tenancy as items were damaged, missing or required to be cleaned. Clause 6 is engaged in this matter which allows the Applicant to use the deposit to make good any costs incurred as a result of the Respondent not fulfilling conditions of the lease including the requirement to repair or replace any items damaged lost or broken within the property.

9. The Applicant was entitled to retain the deposit of £650 to pay for costs incurred as a result of the condition the property was left in by the Respondent and for replacement or repair of items within the property.

10.The Applicant required to pay £237.20 over and above the deposit to pay for repairs, cleaning and other items as set out above.



11. The sum of £4538.29, made up of unpaid rent lawfully due, interest on late payments and the costs not met by the deposit are due to the Applicant by the Respondent.

Reasons for Decision

The rent due in terms of this tenancy agreement was paid by Housing Benefit, which it appears was paid to the Respondent in order to pay her landlord directly. Until the summer of 2018 she was in receipt of this benefit to pay for her rent. It appears from information she gave the Applicant that this was suspended at that time when she failed to disclose a change in her circumstances. At no time after this did she contact the Applicant to discuss the outstanding rent or explain how it was to be paid although she continued to live in the property. The Tribunal was satisfied that in these circumstances the arrears of rent and interest charges were lawfully due by the Respondent to the Applicant.

The matters that arose following the post tenancy inventory check are listed fully in this document. The Tribunal was satisfied that these matters all arose as a result of the Respondent's breaches of terms of the lease and the amounts sought were reasonable in the circumstances.

Decision

The Tribunal makes an order for payment by the Respondent to the Applicant of the sum of £4538.29.

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

3rd May 2019

Date