



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2016**

Chamber Ref: FTS/HPC/CV/18/1439

**Re: Property at Flat 2/1 7 West Princess Street, Rothesay, Isle of Bute, PA20
9AF (“the Property”)**

Parties:

**Roxburn Properties Limited, Paunceford Court Farmhouse, Much Cowarne,
Bromyard, Herefordshire, HR7 4JQ (“the Applicant”)**

**Mr John Junor, C/O 21 Bush Road, Rothesay, Isle of Bute, PA20 9HS (“the
Respondent”)**

Tribunal Members:

Aileen Devanny (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment in the sum of £1,435.08
should be made for the costs of reinstating the Property and for arrears of rent
due from 18 May 2018 until 20 June 2018.**

Background

1. On 11 June 2018 the Applicant lodged an application under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber Rule of Procedure. The application was for an order for payment of rent arrears for the above named Property.

2. On 30 August 2018 a case management discussion (CMD) took place at which the Respondent was not present. On that date the Tribunal was satisfied that there was sufficient information before the Tribunal to grant an order for payment in the sum of £2,390.00 for the rent arrears due as at 17 May 2018. However, on 29 August 2018 the Applicant indicated it wished to claim additional rent arrears for the period beyond that date, along with a sum for repairs and breakages resulting from

the Respondent's misuse of the Property. The Tribunal continued determination to another CMD and directed the Applicant to state the monies claimed due (other than the rent arrears of £2,390.00 which had already been the subject of an order) and the reasons for the claims for additional sums. The Applicant in amending the application was directed to provide an up to date Schedule of Loss detailing the monies claimed due, receipts in respect of repairs and breakages, photographs and other supporting documents to evidence the claims.

3. The Applicant lodged an amended claim and evidence with the Tribunal which was sent by the Tribunal to the Respondent. The Respondent did not respond to the amended claim or notification of the additional sums sought.

4. A case management discussion (CMD) to consider the amended application was set down for 20 November 2018 at 10am. The CMD was to be conducted by telephone conference call and intimation of the date, time and dial-in arrangements were served on the Applicant and Respondent. The parties were told in advance that the Tribunal could decide the matter in the absence of the parties if satisfied it had sufficient evidence and it was fair to do so.

Case Management Discussion on 20 November 2018

5. The case called at a case management discussion on 20 November 2018. The case was conducted by telephone conference call. The Applicant was represented by Ms Amanda Burn. The Respondent did not dial in to the case management discussion. The discussion was delayed until 10.15 to allow the Respondent to contact the Tribunal should he be encountering any communication difficulties. No such communication was received. Evidence in the form of an execution of service by sheriff officers was provided to establish that the details of the CMD to be held on 20 November were served on the Respondent.

6. In advance of the CMD, the Applicant's representative provided evidence of the additional rent arrears sought from 18 May 2018 until 20 June 2018, which amounted to £394.68, and receipts and invoices for replacement items, labour and materials, totalling £1,400.40. The Applicant's representative also provided in advance photographs showing the condition of the house after the Respondent had vacated it and photographs showing the condition of the Property following upon completion of works.

A payment order for the sum of £1,795.08 was sought at the CMD. The Applicant's representative indicated that she had sent a copy of the updated schedule of loss by first class post to the most recent address which she had for the Respondent which was his mother's address. She also stated that she had that day before the CMD sent an e-mail to the mother of the Respondent with the updated schedule of loss to ensure the Respondent had that before him at the CMD.

7. The Legal Member at the CMD enquired about the tenancy deposit of £360.00 which was referred to in a previous e-mail and the Applicant's representative stated that it had been returned to the Applicant and the amount of the deposit should have been deducted from the sum sought in the schedule of loss. She adjusted the sum

sought to reflect the returned deposit. An order for payment of £1,435.08 was sought.

Findings in Fact

1. The parties entered into a tenancy agreement for the Property.
2. The Respondent was due to pay the Applicant rent at the rate of £360 per calendar month.
3. The rent arrears due from 18 May 2018 until 20 June 2018 were £394.68.
4. Damage was carried out to the Property by the Respondent.
5. The tenancy agreement provides that the Respondent must keep the Property and common parts and fixtures, fittings and furniture therein in good condition and give them up to the end of occupation in the same order and condition as at entry, ordinary wear and tear excepted.
6. The damage to the property was not of a type which could be classed as fair wear and tear.
7. The cost to reinstate the Property into the same condition as at the start of the tenancy agreement was £1,400.40.
8. The tenancy deposit of £360 was paid to the Applicant towards the cost of damage carried out by the Respondent.

Reasons for Decision

Having been satisfied that the amount of £ 1,435.08 was due by the Respondent to the Applicant, a payment order for that sum was made.

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 Devanny

Legal Member/Chair

20 / 11 / 18

Date