



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

Chamber Ref: FTS/HPC/CV/19/1956

Re: Property at 8 Pine Quadrant, Chapelhall, Airdrie, ML6 3AE (“the Property”)

Parties:

Miss Lesley Hunter, 5 Staineybraes Place, Airdrie, ML6 6NY (“the Applicant”)

Mr Darren Murdoch, Mrs Donna Campbell, 19 Kelvin Drive, Airdrie, ML6 6HT (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent in the sum of £2581.00

Background

1. By application received on 24 June 2019 the Applicant’s representatives Friends Legal, Solicitors, Glasgow applied to the Tribunal for an order for payment by the Respondent in respect of alleged rent arrears from the Respondent’s tenancy of the Property and for the cost of replacement white goods at the Property. The Applicant’s representatives provided the Tribunal with a copy of the Tenancy Agreement and copy bank statements.
2. Following further correspondence with the Applicant’s representatives a legal member of the Tribunal with delegated powers on 8 July 2019 accepted the application and a Case Management Discussion was assigned.
3. Case Management discussions took place on 6 September and 22 October 2019 and Directions issued to the Applicant’s representatives to produce information relating to the rent paid and that said to be due in the lease and

clarification of the items said to have been removed from the property by the Respondent and confirmation of the cost of their replacement. The parties did not attend the Case Management discussions. The Applicant was represented by agents appearing on behalf of the Applicant's representatives.

4. A hearing was arranged to take place on 6 December 2019.

The Hearing

5. A hearing took place at Glasgow Tribunals Centre, 20 York Street, Glasgow on 6 December 2019. It was attended by Mrs Mandy Robertson of the Applicant's representatives on behalf of the Applicant. The Respondent did not attend and was not represented. The tribunal was satisfied that intimation of the Hearing had been given to the Respondent by Sheriff Officers on 7 November 2019 and determined to proceed with the hearing in the absence of the Respondent. Mrs Robertson advised the Tribunal that she had one witness namely Miss Evelyn Hunter, the sister of the Applicant.
6. Mrs Robertson referred the Tribunal to the response to the Tribunal's Directions contained in an email from her colleague dated 12 November 2019 and apologised to the Tribunal for these being late.
7. The Tribunal confirmed with Mrs Robertson and Miss Hunter that although the Tenancy Agreement stated the rent was to be £525.00 per month it had been agreed between the parties that the rent was in fact £495.00 per month and that the Respondent would pay an additional £30.00 per month towards a deposit. Miss Hunter did not think the deposit paid by the Respondent amounting to £270.00 had been paid into a deposit scheme.
8. Miss Hunter explained her sister had moved to Australia 12 years ago and that she had through her employment with Homelink Properties acted for her sister in letting the property. She confirmed the rent schedule submitted to the Tribunal had been produced by Homelink was correct and that after taking account of the rent paid by the Respondent and the deposit the balance of rent due amounted to £2003.00 which was the sum claimed.
9. With regards to the cost of replacing the washing machine and fridge freezer Miss Hunter explained that following the service of a Notice to Quit on the Respondent she had attended at the property. She had been advised by a neighbour that the Respondent had done a "moonlight flit" the previous weekend. She said she had looked through the kitchen window and noticed the washing machine and fridge freezer had been removed. She had reported the matter to the police as a theft and once she had been able to obtain possession of the property in April 2018 had arranged to replace the missing items with new ones. Miss Hunter went on to say that about two months ago she had been advised by the police that the items had been found in the Respondent's kitchen and she had been asked if she wished them returned. She said she did not as they had been replaced the previous year. She did not know if the Respondent had been charged with theft but thought it likely.

10. Miss Hunter confirmed that she had arranged for a replacement washing machine and fridge freezer to be purchased and installed at the property from AO and referred the Tribunal to the Applicant's bank statement showing an entry for a debit to AO in the sum of £578.00 on 12 April 2018.
11. Mrs Robertson confirmed the price of £578.00 was for the purchase and installation of the items at the property.
12. Mrs Robertson asked the Tribunal to grant a payment order for payment by the Respondent in the sum of £2581.00.

Findings in Fact

13. The parties entered into a Short Assured Tenancy agreement that commenced on 16 February 2017.
14. The agreed rent was £495.00 per month plus £30.00 towards a deposit.
15. The Respondent left the property in April 2018 with rent arrears after deduction of the deposit paid of £2003.00.
16. The Applicant incurred a cost of £578.00 to replace a washing machine and fridge freezer removed by the Respondent when vacating the property.

Reasons for Decision

17. The Tribunal was satisfied from the documents produced and evidence of Miss Hunter at the hearing that the Respondent had accrued rent arrears of £2003.00.
18. The Tribunal was satisfied from the evidence of Miss Hunter that when the respondent had vacated the property the washing machine and fridge freezer had been removed and it appeared that they had subsequently been located by the police over a year later in the Respondent's new home. The Tribunal was satisfied that it was reasonable in the circumstances for the Applicant to be reimbursed for the cost of replacing the items removed.
19. The tribunal was satisfied the Applicant had incurred a cost of £578.00 in replacing the washing machine and fridge freezer.

Decision

20. Having carefully considered the written submissions and productions and the evidence at the hearing the Tribunal finds the Applicant entitled to an order for payment by the Respondent in the sum of £2581.00.

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.

G Harding

Legal Member/Chair

6 December 2019
Date