



**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/18/2066**

**Re: Property at 3 Station Road, Findochty, Buckie, Banffshire, AB56 4PN (“the  
Property”)**

**Parties:**

**Mr John James Leahy, Number 1 Chestnuts, Gardner Street, Herstmonceux,  
East Sussex, BN27 4LD (“the Applicant”)**

**Miss Julie Young, 39 Morven Crescent, Findochty, Buckie, Banffshire, AB56  
4QL (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal 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 £700.00 in respect of unpaid rent.**

**Background**

1. By application to the Tribunal dated 10 June 2018 the Applicant applied to the Tribunal for an order for payment by the Respondent in the sum of £800.00 in respect of unpaid rent and damage to the property not covered by the Respondent’s deposit.
2. The applicant provided the Tribunal with a copy of the tenancy agreement, a copy of the deposit agreement, the Respondents rent payment history, copy AT6 and Notice to Quit and copy correspondence between the parties.
3. By notice of Acceptance dated 20 August 2018 a legal member of the Tribunal with delegated powers accepted the application and intimation of a Case Management discussion was given to the parties. Intimation was given

to the Applicant by letter dated 8 September 2018 and to the Respondent by Sheriff Officers on 12 September 2018.

4. A Case Management Discussion was held at the Credo Centre, 14-20 John Street, Aberdeen on 1 October 2018. Due to the non-availability of the Applicant for work reasons and the non-attendance of the Respondent the Case Management Discussion was adjourned until 20 November 2018 and intimation of the adjourned diet given to the parties by post.

#### Case Management Discussion

5. The further Case Management discussion was held at the Credo Centre 14-20 John Street, Aberdeen on 20 November 2018. It was attended by the Applicant. There was no appearance by the Respondent.
6. The Applicant explained that the Respondent's tenancy deposit of £600.00 had been lodged with Deposit Scotland and that following the termination of the lease the Applicant had applied to the Scheme Administrators for the deposit to be paid to him in full in respect of damage to the property and for the cost of cleaning, gardening and the eradication of fleas from the property. The applicant produced a schedule showing the costs incurred and also costs still to be incurred including costs associated with tracing the Respondent in order to raise these proceedings as well as out of pocket expenses incurred by the applicant in attending the Case Management Discussion.
7. The Applicant explained that the Respondent had not challenged his claim to the Scheme Administrators and he had received payment from them of £600.00. Although the total amount that he believed he was out of pocket amounted to £1528.00 in respect of damage to the property and cleaning, gardening and other expenses his claim was restricted to £100.00 in this regard together with a further £700.00 for arrears of rent. The Applicant confirmed that the Scheme administrators had not taken account of any rent arrears in awarding him the return of the Respondent's deposit.
8. The Applicant spoke to the documents produced in respect of the arrears of rent. The Barclays Bank statement had been filtered to show all the payments made by the Respondent from 14 September 2015 until 3 April 2018. The Applicant also produced a series of calendars showing the Respondent's rent payment history with a balance owing at the end of the tenancy of £700.00.
9. The Applicant confirmed he was seeking an order for payment of £800.00. He accepted that there may be a difficulty in proving some of the additional charges claimed and that the cost of tracing the Respondent and his own costs incurred in attending at the Case Management Discussion may not be recoverable. He also indicated that he would wish matters to be determined without a further hearing being fixed even if that meant any sum awarded being restricted.

## Findings in Fact

10. The parties entered into a Short Assured Tenancy agreement that ended on 22 May 2018.
11. The monthly rent was £400.00.
12. At the date of termination of the lease the Respondent had arrears of rent of £700.00.
13. The Respondent's Tenancy Deposit of £600.00 was returned to the Applicant by the Scheme Administrators as the Applicant had claimed that he had incurred charges for gardening, cleaning, eradication of fleas and repairs to the property.

## Reasons for Decision

14. The Tribunal was satisfied from the documents provided with the application and the explanation provided by the Applicant and the absence of any written representations or personal appearance by the Respondent that the amount of rent arrears said to be due by the Respondent at the termination of the lease in the sum of £700.00 was correctly calculated.
15. Although the Respondent had indicated in correspondence to the Applicant that her deposit should be used to clear the rent arrears it appeared from the information provided by the Applicant that the deposit had been returned to him to cover the cost of cleaning, the eradication of fleas and repairs to the property and that this had not been disputed by the Respondent. Furthermore the Respondent had made no written representations to the Tribunal nor had she chosen to attend the Case Management discussion or offer any reason for her non-attendance.
16. Although the applicant was seeking a further payment of £100.00 in respect of additional damage not covered by the return of the deposit and indeed had produced a schedule showing that there was further damage to the property including the slates and plasterboard around a velux window plus additional costs incurred in tracing the Respondent and attendance at the Case Management Discussion, the Tribunal was of the view that these items were either not recoverable as they fell to be considered as expenses of the proceedings that would require the tribunal to make an award of expenses against the Respondent or they were potential claims that would require vouching and proof at a full hearing. The Applicant had indicated that he wished the matter resolved at the Case Management Discussion and on that basis given that the deposit returned by the scheme administrators covered the cost of cleaning the property, the gardening, the repairs to the bathroom sink, the eradication of fleas, repairs to the living room carpet and reduction in rent to the incoming tenant the Tribunal was satisfied that no further award should be made to the Applicant beyond an order for payment of a sum of £700.00 in respect of the arrears of rent.

## Decision

The Applicant is entitled to an order for payment by the Respondent in the sum of £700.00.

## 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.**

Graham Harding

Legal Member/Chair

Date

20 November 2018