



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Reference number: FTS/HPC/CV/19/2450

Property: 14 Whistleberry Lane, Hamilton, ML3 0QF

Parties:

Colin McCaffrey and Sally McCaffrey, spouses, residing together at 6 Hunterlees Gardens, Glassford, Strathaven ML10 6GE (“the Applicants”)

Susan Johnstone, formerly residing at 189 Calder Glen Courts, Mull, Airdrie. Lanarkshire and whose present whereabouts are unknown (“the Respondent”)

Tribunal Members:

Paul Doyle (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 should be made.

Background

The Applicant sought an order for payment of rental arrears totalling £15,974.50. The Applicant had lodged with the Tribunal Form F. The documents produced were a Tenancy Agreement, a form AT5 and an estimate for repairs. An extract from the Land Register was produced which confirms that the applicants are the heritable proprietors of the property.

Case Management Discussion

A case management discussion took place before the Tribunal at 2pm on 6 December 2019 at the Glasgow Tribunals Centre, 20 York street, Glasgow G2 8GT. The Applicants were represented by Ms H Sloey, trainee solicitor. There was no appearance by or on behalf of the Respondent. The details of today’s case management discussion have been timeously and correctly intimated to the respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicants and the Respondent entered into a Short-Assured Tenancy Agreement for the Property on 28 November 2015. That tenancy ended on 30 April 2019.
2. The initial rent in terms of the Tenancy Agreement was £575 per month.
3. The respondent failed to pay the full monthly rental from 4 March 2019. A notice to quit was served and the tenancy ended by mutual agreement on 30 April 2019. On recovering the property, the applicants found that the respondent was responsible for significant damage to the property. The applicants sought an estimate for necessary repairs which totalled £15,974.50
4. Notice of the date of this hearing was served on the Respondent by advertisement on 1 November 2019 because her whereabouts are unknown.
5. Since lodging the application the applicants have carried out remedial works which cost less than the estimate that supports the application. The total cost of necessary remedial works and replacement of damaged items is £12,299.48. The applicants now seek an order for payment in that sum. Inventories of condition were taken at the start and end of the tenancy. The inventory taken at the end of the tenancy discloses significant damage to the property.
6. The respondent makes no response to this application. The tenancy ended by agreement on 30 March 2019. The works carried out by the applicants were necessary remedial works required to rectify the damage to the property for which the respondent is responsible in terms of the tenancy agreement. The respondent breached the terms of the tenancy agreement by allowing disrepair and damage to the property. The total cost of repairs and rectification work is the measure of the applicants' loss as a result of the respondent's breach of the tenancy agreement.
7. The applicants are entitled to a payment order in the sum of £12,299.48.

Reasons for the Decision

The Tribunal determined to make an Order for payment of £12,299.48. That sum is the cost of remedial work rendered necessary by the respondent's breach of the terms of the tenancy agreement. That sum remains unpaid and is due and resting owing to the applicants. The damage to the property was caused during the currency of the tenancy. Clause 4.1 of the tenancy makes the respondent responsible for the cost of necessary remedial work to the property and its fixtures and fittings.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for payment.

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.

P Doyle

Legal member



Date 6 December 2019