

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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 (Act)**

**Chamber Ref: FTS/HPC/CV/19/2554**

**Re: Property at 372 Colinton Mains Road, Edinburgh, EH13 9BS (“the Property”)**

**Parties:**

**Mr Ramesh Golkonda, 19 Craigmount Brae, Edinburgh, EH12 8XD (“the Applicant”)**

**Mr Pradip Sutare, 372 Colinton Mains Road, Edinburgh, EH13 9BS (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be refused.**

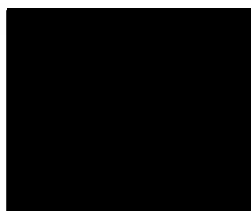
**Background**

This is an application for damages in respect of losses incurred by the Applicant arising from a tenancy with the Respondent under section 16 of the Act and Rule 70 of the Tribunal Procedure Rules.

The Tribunal had regard to the following documents:

1. Application received 16 August 2019;
2. Written Submissions of the Applicant dated;
3. Supporting documents lodged with Applicant’s written submissions;
4. Schedule of Loss dated 13 August 2019;
5. Written Submissions of the Respondent dated 27 September 2019, 10 and 14 October 2019.

**Case Management Discussion (CMD)**



Both Parties appeared at the CMD and represented themselves. The Applicant advised that TC Young were not representing him.

The Respondent had lodged Written Submissions in advance of the CMD which also sought what the Respondent called "summary judgement". This was on the basis (amongst others) that the Applicant was pursuing various claims arising from the tenancy which were currently at Hearing stage before the Tribunal and that there was no basis for the various claims.

The Tribunal noted that there were a number of claims between the Parties which were proceeding and had reached Hearing stage but had not concluded. The other claims did not encompass the heads of loss claimed by the Applicant in the current matter.

The Applicant was asked by the Tribunal about each head of claim and why it was he considered that he had a legal basis to hold the Respondent responsible and seek compensation from him.

The Applicant was unable to state what the legal basis of each of the claims was.

The Tribunal enquired whether or not the Applicant wished time to obtain legal advice given the questions asked by the Tribunal about the legal basis of the claims he was making and the application for "summary judgement" which was before the Tribunal.

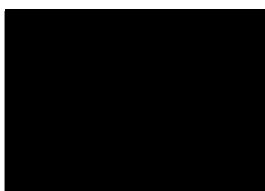
The Applicant advised that he could not afford a lawyer and as such wished to proceed.

The Respondent contended that the Applicant had the benefit of legal advice with regard to the current application and that summary judgement should be granted in his favour.

The Tribunal informed the Parties that the Tribunal could determine the matter at this stage if satisfied that it had sufficient information to do so and the procedure had been fair.

The Tribunal considered what had been said by the Applicant and the documents lodged in support of his application. Having done so the Tribunal made the following findings in fact:

1. The Parties had entered in to a tenancy arrangement which was not documented in respect of one bedroom in the Respondent's Property;
2. The Applicant had incurred costs in respect of an HMO application in 2017/18;
3. The HMO application had been refused as the Local Authority could not gain access to the Property to carry out an inspection (specifically the Respondent's room);
4. The Applicant had incurred costs in respect of gas engineers due to (1) reported defect by the Respondent which was investigated, and no defect



- found and (2) The Respondent directly booking an inspection which had incurred cost (£234);
5. The Applicant had incurred costs of a Sheriff Officer for serving a right of entry application on the Respondent in the sum of £62.42.

The Tribunal considered that the facts found and the documents relied upon in support of the application did not disclose even a prima facie case against the Respondent.

### **1. Loss of Rent/Abortive Fee for HMO Application/Reapplying for HMO Costs**

The fact that an HMO application had been refused was not the responsibility of the Respondent. Neither was the Respondent responsible for the fact that the Applicant had not let out the other 3 rooms in the Property. There was no legal basis to assert liability against the Respondent for these heads of loss. The Tribunal accordingly did not accept these Heads of Claim.

### **2. First Gas and Gas Safety Check Costs**

The Tribunal did not accept that the Respondent could be held liable for reporting a fault with the boiler which was subsequently inspected and no fault found.

In so far as the other costs relating to the Respondent arranging a gas safety inspection – the Applicant informed the Tribunal at the CMD that the Gas Company mentioned was the wrong gas company and costs were incurred with another company. In light of that and the fact that the Applicant did not seek to amend, the Applicant could not establish the case he had put forward in this regard.

### **3. Scott and Company – letter regarding access.**

The Applicant elected to serve the right of entry notice by Sheriff Officers. This was at his discretion. There was no legal basis to assert that the Respondent should be responsible for such cost.

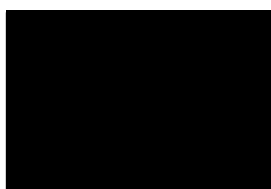
## **Decision**

The Tribunal refused the application.

The Respondent moved for expenses. The Tribunal allowed the Applicant 28 days to respond in writing to the application (19 November 2019) and for the Respondent to respond in writing by 3 December 2019.

## **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.



14 October 2019

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Legal Member/Chair

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Date