



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

**Chamber Ref: FTS/HPC/CV/18/2814**

**Re: Property at 11/4 Upper Grove Place, Edinburgh, EH3 8AY (“the Property”)**

**Parties:**

**Miss Gemma Thomson, Mr Jacob David Frost, 53/8 West Bryson Road,  
Edinburgh, EH11 1BQ (“the Applicant”)**

**Ms Marion Clegg, Sam Ye Ling, Eskdalemuir, Langholm, DG13 0QL (“the  
Respondent”)**

**Tribunal Members:**

**Fiona Watson (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an order is granted against the Respondent(s) for  
payment of the undernoted sum to the Applicant(s):**

**Sum of FOUR HUNDRED AND TWENTY ONE POUNDS AND SIXTY PENCE  
(£421.60)**

An application was received by the Tribunal on 19 October 2018, made under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. Said application was for civil proceedings arising from a private residential tenancy and which sought a payment order against the respondent in the sum of £1271.60

A Case Management Discussion took place on 11 January 2019. The applicants were both personally present. There was no appearance by or on behalf of the respondent.

The applicants moved for an order for payment to be made against the respondent in the sum of £1271.60.

The applicants advised that their claim was made up of the following heads of claim:

1. Compensation of £200 due to the landlord's letting agent's failure to nominate the correct tenant as the lead tenant for the purposes of the tenancy deposit scheme information. The applicants advised that their application form and lease had specified Gemma Thomson to be the lead tenant however the landlord's agents had wrongly put Jacob Frost's name as lead tenant. Despite a number of requests for this to be amended, this was never done by the letting agent.
2. The sum of £352.60 for rent paid for a period of 13 days when they were unable to sleep in the property due to the bed being broken and the landlord's agents failing to fix same for a period of 13 days. They advised that this sum was calculated on the basis of the daily rental rate multiplied by 13 days.
3. The sum of £50 for compensation for the alarm and distress caused by the landlord's agent's employees taking access to the property without the applicants' knowledge or consent to remove the broken bed and install the new one.
4. The sum of £200 as compensation for the windows in the property not being in a reasonable state of repair and working order and the property not being wind and watertight.
5. The sum of £69 for the cost of purchasing a microwave due to the property having been advertised as including a microwave but the microwave being missing when they moved in. The Tribunal was advised that the landlord's agents had agreed to reimburse this cost to them and a receipt was sent to them for payment, however no repayment was ever received by the applicants.
6. The sum of £300 as a contribution towards the costs involved in the applicants having to move out of the property and find somewhere else to live due to the ongoing issue with the state of repair, the lack of communication from the landlord's agents and dissatisfaction with the service given by them. The applicants advised that they handed in their notice to the landlord's agents bringing the tenancy agreement to an end on 5 October 2018. They found alternative accommodation which they moved into on 1 October. £126 of this head of claim reflected the overlap of 4 days rent incurred by the tenants in having the cost of rent of two properties at the same time. The remainder of this head of claim was compensation for distress caused by having to move.
7. The sum of £100 as compensation for overall stress caused, time spent trying to deal with the landlord's agents during the course of the tenancy and frustration at their poor level of service.

The applicants confirmed that they had considered the options of making an application to the Tribunal for determination that the property did not meet the Repairing Standard as set out in Chapter 4 of the Housing (Scotland) Act 2006 and/or an application for a determination that the letting agent had failed to adhere to the Code of Practice as laid down in the Letting Agent Code of Practice (Scotland) Regulations 2016. They decided that they would prefer to raise an application under section 111 as they considered that all of their claims could be dealt with under one application, which was their preference.

The Tribunal was satisfied on the basis of the submissions made by the applicants that an order could be granted under each of the heads of claim numbered 2 and 5 above, and which added up to the sum of £421.60.

The Tribunal was not satisfied that it would be appropriate to award an order for compensation against the landlord, for failures directly attributable to the landlord's agents. The applicants provided no submissions to the Tribunal as to the legal competency of their claim. They provided no basis for which it could be argued that the landlord knew about the agent's failings and did nothing. The applicants confirmed that they had had no contact with the landlord directly, and that they were not aware as to what the landlord did or did not know about what was going on during the course of the tenancy. They were unaware as to whether the agents had notified the landlord of the issues which arose during their tenancy. Whilst it was acknowledged by the Tribunal that the applicants were lay persons and therefore legal submission were limited, it remained that the Tribunal still required to be satisfied that there was competency and justification for the applicant's claim for financial compensation directed against the landlord. The Tribunal was accordingly not satisfied that compensation should be awarded against the landlord for what appeared to be failures of service by the landlord's letting agent. The Tribunal considered that it was open to the applicant to raise an alternative application for determination that the landlord's letting agent had breached a term or terms of the Letting Agent Code of Practice and seek orders thereunder.

Accordingly, the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order is granted against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of FOUR HUNDRED AND TWENTY ONE POUNDS AND SIXTY PENCE  
(£421.60)

### 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.**

F Watson

\_\_\_\_\_  
Legal Member/Chair

\_\_\_\_\_  
Date

21/1/19