



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)  
Act 2004**

**Chamber Ref: FTS/HPC/CV/19/2005**

**Re: Property at 53 Moorhouse Avenue, Paisley, PA2 9NY (“the Property”)**

**Parties:**

**Mr John Hynd, 53 Moorhouse Avenue, Paisley, PA2 9NY (“the Applicant”)**

**Miss Sarah Guthrie, 36/3 Greenlaw Drive, Paisley, PA1 3RU (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and David Wilson (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted in part and made an Order for Payment by the Respondent to the Applicant of the sum of £550.**

**Background**

1. By application, received by the Tribunal on 28 June 2019, the Applicant sought an Order for Payment by the Respondent in respect of unpaid rent and the cost of repairs and redecoration following on the termination of the Respondent’s tenancy of the Property. The amount sought was £1,048.
2. The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties, commencing on 28 July 2017 at a monthly rent of £625 and with a Deposit of £625, confirmation from the Respondent that she had vacated the Property on 26 November 2018, an Exit Report prepared by the Applicant’s letting agents dated 29 November 2018, with supporting photographs, confirmation from SafeDeposits Scotland of their adjudication that the whole deposit should be repaid to the Applicant and invoices from contractors in respect of damage to the kitchen worktop (£200), cleaning (£240), redecoration (£600) and repairs to the door of a kitchen unit, replacement of 6 light bulbs and replacement of silicone bath sealant (£108).
3. A Case Management Discussion was held on 24 October 2019, at which the Respondent’s representative stated that she accepted she had vacated the

- disagreed, stating that the application to SafeDeposits Scotland was for refund to the Applicant of the full deposit because of arrears of rent, cleaning and repairs required to reinstate the Property to a condition in which it could be re-let.
- 9 Mr Montgomery told the Tribunal that the Respondent accepted that the charge in respect of redecoration of two walls, one in the bedroom and one in the kitchen, was reasonable, but no check-in inspection had been carried out and the Respondent had not been invited to attend the check-out inspection.
  - 10 Ms Brown responded that her firm's standard practice is to carry out the check-out inspection of properties when the keys are returned. They then tell tenants if they intend to agree to a refund of the deposit and it is up to their landlord clients to decide whether to seek recovery of sums over and above the deposit.
  - 11 Mr Montgomery said that the Respondent had been aware that the rent was one month in arrears and had not objected to the deposit being returned to the Applicant, but she rejected the suggestion that she had seen any check-in report or that there had been any contact after the check-out inspection. Ms Campbell responded that, at the outset, tenants are given the inventory and are told that they have seven days to respond. She pointed out that, by law, they were obliged to issue a Tenant Pack. If the tenant does not return the Inventory within seven days, they assume the tenant has accepted it as accurate. The Respondent told the Tribunal that she had never received it.
  - 12 The Respondent expressed the opinion that the requirement for redecoration of the hallway was the result of fair wear and tear. The kitchen cupboard door had just come off. She had reported it to the Applicant, but the Applicant had not taken steps to fix it. The Respondent and her mother had cleaned the Property before she vacated it and there had been no need to then employ industrial cleaners. She had not really used the main lights in the rooms, so would not have noticed if any of the bulbs needed to be replaced.
  - 13 The Respondent insisted that she had not damaged the kitchen worktop. The Applicant's position was that it had not been damaged when the tenancy started, and the assessment of 27 July 2017 had stated that it was in good order at that time.
  - 14 Mr Montgomery told the Tribunal that he found it odd that when he checked online the companies who had issued the invoices, he could not find any trace of some of them. Clydeside Industrial Cleaning was shown in records at Companies House to be dissolved and he could find no trace of JR Property Maintenance. Ms Campbell replied that the firm still uses Clydeside Industrial Cleaning on a more or less daily basis and also still instructs JR Property Maintenance. The invoices from those businesses would normally arrive by e-mail. Mr Montgomery thought it very irregular that there was no business address on the invoices from JR Property maintenance and repeated the Respondent's view that the work and the cleaning had not been necessary.
  - 15 In concluding remarks to the Tribunal, Mr Montgomery said that it would have been very helpful if the check-in report had been submitted with the application, as it was very professional, in stark contrast to the check-out report, which was just a series of notes.

## Reasons for Decision

16. The Tribunal was not prepared to speculate as to how or whether SafeDeposits Scotland had apportioned the deposit refund between rent arrears and decoration/repairs. The Applicant had been given an opportunity to obtain further information from SafeDeposits Scotland as to whether and, if so how, they had broken down the amount of the deposit, but their e-mail of 25 November 2019 had repeated the phrase "arrears on account and cleaning required after vacating". Accordingly, the Tribunal could not hold that the deposit should be regarded as having been wholly utilised to meet rent arrears.
17. The Tribunal accepted the evidence led by the Applicant's representatives, that the businesses that had provided the invoices on which the Applicant relied were firms or individuals that they continued to use. The fact that the Respondent's representative had been unable to find information on the internet about any of them was not relevant to the Applicant's claim.
18. The Respondent had stated that the kitchen unit door had just come away and that she had reported it at the time, but nothing had been done. The Applicant had not provided evidence to counter the Respondent's claim, so the Tribunal did not uphold the application insofar as it related to alleged damage to the door.
19. The Tribunal noted that the check-in report, dated the day before the tenancy began, stated that the kitchen worktop was "in good condition". The Tribunal had seen photographs taken at the check-out report dated 29 November 2019, three days after the Respondent left the Property. These photographs clearly showed damage to the worktop which appeared to the Tribunal to be more than could be attributed to fair wear and tear and the Tribunal held, on the balance of probabilities, that the worktop had been damaged during the tenancy. Accordingly, the charge of £200 for repairing it was justified.
20. The Respondent had been adamant that she and her mother had spent two days cleaning the Property and that industrial cleaning after that would not have been necessary. The check-out report had concluded that some "light cleaning" might be required prior to re-letting the Property but had also specified that the oven was dirty inside and this was supported by the wording of the invoice from Clydeside Industrial Cleaning which stated "Oven – very dirty". The Tribunal accepted the evidence that oven cleaning was required and determined that the sum of £50 of the invoice could be fairly attributed to that item. Standing the wording of the check-out report that only "light cleaning" might be required before a new tenant moved in, the Tribunal was not prepared to uphold the Applicant's claim with regard to cleaning costs, apart from the amount it had attributed to the cost of cleaning the oven.
21. The Respondent had accepted that she should meet the cost of redecoration of two walls.
22. The Tribunal determined, on the balance of probabilities and in the absence of evidence of specific damage, that the remaining decoration items claimed by the Applicant were the result of fair wear and tear, so were not the responsibility of the Respondent.
23. The Tribunal was not in a position to sub-divide accurately the bill for redecoration but, in the absence of a breakdown in the invoice, regarded it as reasonable to include in its Order for Payment the sum of £300, being 50% of the total cost.

24. The Tribunal regarded the requirement to replace the silicone sealant of the bath as attributable to fair wear and tear and, whilst it accepted that the lease required to Respondent to replace light bulbs when necessary, decided that the matter was so trivial that it did not justify inclusion in an Order for Payment.
25. The Tribunal determined that the Respondent had rent arrears of £625 and that she should be ordered to pay £550 of the costs claimed by the Applicant in respect of cleaning (£50), redecoration (£300) and damage (£200). The Applicant had received the full deposit of £625, which had to be set off against the sum due by the Respondent. This left a balance of £550.

### **Decision**

The Tribunal, having considered all the evidence, written and oral, presented to it, determined that the application should be granted in part and made an Order for Payment by the Respondent to the Applicant of the sum of £550.  
The Decision of the Tribunal was unanimous.

### **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.**

George Clark

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**Legal Member/Chair**

11 December 2019  
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**Date**