Housing and Property Chamber
First-tier Tribunal for Scotland

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/20/0111

Re: Property at 13 Montrose Court, Motherwell, ML1 4WN ("the Property")

Parties:

Mr James Doherty, 6 Bairds Crescent, Hamilton, ML3 9FD ("the Applicant")

Ms Siobhan Logan, 69 Carfin Road, Motherwell, ML1 4WN ("the Respondent")

Tribunal Members:

Neil Kinnear (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that

Background

[1] This is an application for a payment order dated 8th January 2020 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

[2] The Applicant seeks payment of arrears in rental payments together with damages in the total sum of £1,453.30 due by the Respondent in respect of her tenancy of the Property, and provided with his application copies of a short assured tenancy agreement, form AT5, schedule of condition, rent arrears statement, summary of claim, and various invoices and correspondence.

[3] The tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*.

[4] The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 5th February 2020, and the Tribunal was provided with the execution of service.

[5] A Case Management Discussion was held on 9th March 2020 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant appeared, and was not represented. The Respondent did not appear, but was represented by Mr Clayson, Lay Representative.

[6] A detailed Case Management Discussion note helpfully sets out what took place. The application was set for a Hearing, and the Tribunal issued directions to both parties.

[7] A Hearing was held at 10.00 on 14th August 2020 by Tele-Conference. The Applicant participated, and was not represented. The Respondent participated, and was again represented by Mr Clayson.

[8] The Tribunal held a preliminary discussion to explain the procedures involved in a Hearing conducted by Tele-Conference, and also to identify the areas which remained in dispute.

[9] The Applicant advised the Tribunal that after further clarifications he had received concerning certain potential liabilities he might be responsible for, he now longer intended to seek to recover £64.29 in respect of an EON utility bill and £184.31 in respect of potential council tax liability for a two month period. He continued to seek the remaining £1,204.70 of the claim.

[10] The Tribunal noted that the Applicant had been directed to produce photographs showing the extent of damage to walls, carpet and bath seal at the property at the end of the tenancy. The Tribunal had not received these.

[11] The Applicant confirmed that he had sent these in response to the direction on 28th July 2020, and was able to confirm the time of the e-mail to which fifteen photographs were attached.

[12] After making enquiries, it appeared that this e-mail with attachments had not been received by the Tribunal. Unfortunately, the Tribunal's systems will not accept e-mails with data over a certain data size limit, but apparently the sender unusually receives no message to alert them that the e-mail has not been received.

[13] The Applicant confirmed that the photographs he had sent were important to his case, which the Tribunal could well understand from his perspective. Thereafter, the Tribunal adjourned for several periods of time throughout the morning to allow the Applicant to send in the photographs in multiple e-mails containing one to three images each.

[14] Due to e-mail delays, that process was not completed until just before lunch, at which point Mr Clayson and the Respondent still needed to be sent the photographs so that they could view them and in order that Mr Clayson might discuss them with the Respondent.

[15] Pragmatically, Mr Clayson invited the Tribunal to adjourn the application to another date, in order to allow him and the Respondent to view and discuss the photographs. He also noted that if the Tribunal commenced hearing evidence in the afternoon, it was highly unlikely to conclude the hearing, as he had substantial legal submissions to make with regard to the *Equality Act 2010*.

[16] The Tribunal noted that Mr Clayson in his earlier helpful representations made on behalf of the Respondent had touched upon and foreshadowed arguments he intends to make concerning the *Equality Act 2010*. This is a relatively complex area of the law, and the Tribunal was conscious that neither it nor the Applicant yet knew in any detail the nature and scope of those arguments.

[17] It appeared to the Tribunal that it might be helpful for Mr Clayson to lodge detailed legal submissions setting out with reference to legal authority and the provisions of the *Equality Act 2010* the arguments he intended to advance.

[18] The Tribunal was conscious that the Applicant is not legally qualified, and is unrepresented, and in those circumstances it would be just for him to have some advance warning of the legal arguments he might face at the Hearing. It might also allow him to seek legal advice on those points if he so wished.

[19] It might also assist in narrowing the issues to be explored in evidence if the parties and Tribunal were aware of the legal arguments being made in respect of the different heads of claim.

[20] Mr Clayson indicated that he was very happy to lodge such submissions, and agreed that a direction that this be done no later than 14 days in advance of any continued hearing which might be set was appropriate.

[21] The Applicant indicated to the Tribunal that his preference was to conclude the Hearing today, but that he recognised the sense of adjourning matters to allow the issue of his photographs to be dealt with, and of written legal submissions being lodged in advance of the hearing of evidence.

[22] Rule 28 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended allows the Tribunal discretion on its own initiative, or on an application by a party, to adjourn a Hearing.

[23] The Tribunal considered that in the circumstances it would be appropriate and in the interests of justice to continue this matter to a further date to hear evidence, and adjourned the Hearing.

[24] Mr Clayson thereafter lodged written detailed legal submissions setting out with reference to legal authority and the provisions of the *Equality Act 2010* the arguments he intended to advance, and the Applicant lodged detailed written responses to those submissions.

Continued Hearing

[25] A continued Hearing was held at 10.00 on 30th September 2020 by Tele-Conference. The Applicant participated, and was not represented. The Respondent participated, and was again represented by Mr Clayson.

[26] The Tribunal heard evidence from the Applicant and the Respondent, and thereafter submissions on both the facts in dispute and the applicable law.

Findings in fact

[27] After hearing all the evidence led by both parties on the issues in dispute between them and upon which the Tribunal requires to reach a decision, the Tribunal found in fact:

1) That the Respondent was tenant at the Property for a period commencing 5th February 2016 until she left on 5th October 2018.
2) That arrears of rental of £900.00 are due by the Respondent to the Applicant.
3) That the Respondent felt that she would not be able to afford to continue living in the Property as a result of her not commencing alternative employment in a new role which she was anticipating that she would obtain.
4) That there is insufficient evidence led by the Respondent to establish a legal case that the rent arrears should be waived as a reasonable adjustment in terms of the *Equality Act 2010*.
5) That the tenancy deposit of £450.00 has been released in full to the Applicant following the conclusion of the tenancy.
6) That the Respondent had attempted in good faith to carry out cleaning of the Property prior to her departure.
7) That the quality of that cleaning work carried out by the Respondent was not of a sufficient or acceptable standard to meet her obligations under the lease.
8) That the carpet in the lounge was heavily stained and required to be replaced at a cost of £166.50 after a 50% deduction for fair wear and tear.
9) That damage comprising dents and scrapes had been caused to parts of the interior walls of the Property which were beyond fair and tear, and required to be repaired at a cost of £25.00.
10) That the Property's door handles and windows required to be cleaned at a cost of £65.00.
11) That the Property required to be repainted internally in the lounge, bedroom and hall at a cost of £410.00, from which sum a 50% deduction should be made in respect of fair wear and tear.
12) That the cost of cutting out and replacing the silicone seal around the en-suite shower cubicle of £45.00 is attributable to fair wear and tear and is not recoverable.
13) That the tracing cost of £43.20 is not reasonably recoverable from the Respondent.
14) That the Applicant is in consequence entitled to payment from the Respondent of the sum of £911.50 in respect of the reasonable cost of work carried out by him and for which the Respondent is liable in terms of the lease agreement,

together with rent arrears and under deduction of the tenancy deposit paid to him.

The Evidence

[28] The Tribunal heard from both the Applicant and the Respondent in evidence. Both were clear and measured in explaining their position. The Tribunal found both to be credible and reliable in their evidence concerning the issues in dispute in this application.

[29] Much of the primary factual evidence given by both parties was not disputed. However, what the Tribunal should make of that evidence was.

[30] The parties were agreed about the terms of the tenancy agreement, and the commencement and termination dates of that agreement. They were also agreed that in terms of the agreement, the Respondent required to give two months' notice to the Applicant of her intended departure, which she did not do. Having departed without giving such notice, both parties agreed that she was liable to pay two months rental of £900.00, which the Respondent did not.

[31] The Respondent explained that she had been diagnosed with multiple sclerosis, and accepted that she had not told the Applicant of her condition until the time of her departure from the Property. She had been unable to continue in her previous employment, and had not been earning any income for about six months prior to her quitting the Property.

[32] She had remained in the Property during that six month period paying the rent from savings and borrowing, as she anticipated that she would obtain an alternative position with her former employer which she would be capable of fulfilling. It was as a result of that anticipated employment opportunity falling through, that she decided that she would not be able to continue to afford to stay in the Property and left to go and live with her parents for a period.

[33] The Respondent noted that she had explained her position to the Applicant's letting agents in an e-mail when she quit the Property. She argued that as a result of her medical condition, the Respondent required to make reasonable adjustments in terms of the *Equality Act 2010*, and that such a reasonable adjustment should be to waive the two months' notice which she required to give.

[34] The Applicant explained that he had great sympathy for the Respondent with respect to her diagnosis. However, she had never mentioned it to him until the time when she quit the property without giving notice, and she never asked him to make any reasonable adjustments for her as a result of her medical condition.

[35] The Applicant argued that the Respondent had made the decision to depart without giving notice as a result of her decision that she could not afford to live in the Property any more. She could have given proper notice in advance of her departure, but did not do so. Many tenants might find themselves in financial difficulty as a result of losing, or failing to gain, employment, and the Respondent was no different in that

respect. The Respondent lost rental income as a result of the lack of notice. Had he been given proper notice, he might have found another tenant to let the Property to from the date the Respondent quit it.

[36] The Parties accepted that the tenancy deposit of £450.00 had been paid to the Applicant, and that he had deducted this sum from the amount which he asserted the Respondent was liable to pay him.

[37] The Applicant gave evidence with reference to photographs showing the condition of the Property after the Respondent left. These showed heavy wear, staining and some damage to the lounge carpet. He required to replace that at a cost of £333.00. He accepted that the carpet was not new when the Respondent took entry, and as a result deducted 50% in respect of fair wear and tear.

[38] The Applicant gave further evidence with reference to the photographs showing various scrapes, dents, holes and damage to the interior walls, which he required to repair at a cost of £25.00. The photographs also showed dirty marks on doors, door handles, electrical switches and surrounds, all of which required to be cleaned along with the windows which were dirty, at a cost of £65.00. He then required to repaint the lounge, bedroom and hall to re-instate the décor, at a cost of £410.00. The Applicant carried out this work himself as part of his landlord's duties, and charged a "below market rate" of £25.00 per hour.

[39] Finally, the Applicant explained that the silicone seal around the en-suite shower cubicle was black with mould, and he required to cut it out. The photographs he referred the Tribunal to in this regard certainly showed some black mould growth along some of the silicone, but by no means all of it.

[40] In response to the Tribunal's enquiry, the Applicant conceded that he would expect to "freshen up" the paintwork at the property every two to three years. He conceded that the paintwork had not been freshly applied prior to the Respondent taking entry, and that she had been tenant for two years and eight months. However, the amount of redecoration required was far in excess of what he would anticipate was required to "freshen up" the Property. The Applicant also accepted that he would expect the silicone to be renewed at least every five years, and again accepted that the silicone had been present for at least three years.

[41] The Respondent asserted that she had been a good tenant, and had tried to clean the Property to the best of her ability. Her condition made it difficult for her to do so, and her family and friends were all extremely busy with their own lives to provide more than basic help. She was disappointed on viewing the photographs to see that her cleaning efforts were less successful than she had hoped, but she still felt that what was shown was no more than fair wear and tear.

Legal Submissions

[42] Mr Clayson argued solely in relation to the claim for two months' notice, that the Respondent has the protected characteristic of disability as defined by section 6 and

Schedule 1 paragraph 6 of the Act. As a result, she is entitled to various statutory protections as set out in the Act.

[43] In particular, she is entitled to the protections set out in sections 20 to 22 of the Act. Mr Clayson relied upon the first requirement in section 20(3) of the Act, which provides that it is a requirement "where a provision, criterion or practice…puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage".

[44] Mr Clayson argued that the Respondent had been put at a substantial disadvantage due to the terms of the lease as compared to persons who are not disabled. But for her disability, she would not have required to leave the tenancy at extremely short notice. She found herself in a situation where she had to leave a tenancy where she had been settled and where she had been a good tenant due to a dramatic change in her life. If she is required to pay two months' notice then that is clearly a substantial disadvantage. A person who was not disabled would not have found themselves in such a situation where they could not remain in the Property.

[45] Mr Clayson noted that section 21 of the Act provides that a failure to comply with the first requirement is a failure to comply with a duty to make reasonable adjustments, and it is discrimination against a disabled person to fail to comply with that duty.

[46] Schedule 4 to the Act makes more specific provisions in relation to reasonable adjustments in the context of let premises. Paragraph 2 applies to the controller of let premises, and sub-paragraph 2 provides that the controller must comply with the first requirement in section 20(3) of the Act. Sub-paragraph 3 provides that for the purposes of section 20(3) of the Act, a provision, criterion or practice includes a term of the letting. Sub-paragraph 4 provides that in section 20(3) a reference to a disabled person is to a disabled person who is a tenant of the premises. Sub-paragraph 5 provides that sub-paragraph 2 applies only if the controller receives a request from or on behalf of the tenant to take steps to avoid the disadvantage.

[48] Mr Clayson submitted that the Applicant is controller of the Property, and the Respondent is a disabled person who is the tenant. Section 20(3) specifically applies to terms of the tenancy agreement, and therefore the provision in the agreement requiring two months' notice can be the subject of the duty to make reasonable adjustments.

[49] With regard to Schedule 4 paragraph 2(5), Mr Clayson submitted that the Respondent's e-mail to the Applicant's letting agents when she quit the Property constituted a request. Accordingly, there was a duty on the Applicant to make adjustments to the terms of the tenancy agreement requiring the tenant to give two two months' notice.

[50] The final question, Mr Clayson submitted, is whether the proposed adjustment is reasonable. He submitted that the test in an objective one, and that the Tribunal should determine that a reasonable landlord would not have sought to rely on the requirement for the Respondent to give two months' notice. It was within the discretion of the Tribunal to substitute another adjustment which it considers to be reasonable.

[51] In response, the Applicant firstly submitted that the Respondent did not specifically ask for him to make reasonable adjustments in her e-mail to his letting agents. She merely outlined her position, and stated that she could not afford to pay rent for the two months' notice period. There was no explanation as to why the Respondent's disability required her to leave at extremely short notice. Rather, her e-mail stated her reason for leaving was "I simply do not have the income or financial ability to pay my rent in this flat anymore".

[52] Secondly, he submitted that he only required to make reasonable adjustments if his practices and policies unreasonably discriminate against disabled people. The terms of the agreement did not do so. All his tenants including working people, unemployed people and people with protected characteristics are required to provide two months' notice and the inclusion of that provision was therefore not discriminatory.

[53] The Applicant thirdly submitted that before a reasonable adjustment must be made, the Respondent required to prove that she was at a substantial disadvantage compared with people who are not disabled, and that disadvantage must be more than minor or trivial. She had failed to do so.

[54] Fourthly, he submitted that if the Respondent was unable to work as a result of her disability, then she would be entitled to claim housing benefit to pay her rental. If she had made such a claim, this situation would not have occurred, and avoided placing him at a financial disadvantage. Many able-bodied people could find themselves unable to work and be in a similar financial situation to the Respondent, and hence her situation was not caused by her disability.

[55] The Applicant noted that the model private residential tenancy agreement prepared by the Scottish Government contains a provision that a tenant must give 28 days' notice of termination, which shows that such a provision requiring notice is not discriminatory.

[56] Finally, the Applicant stated it would be unreasonable and unfair for himself and his family to be financially disadvantaged as a result of the Respondent's unfortunate disability.

Statement of Reasons

[57] Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

"16. Regulated and assured tenancies etc.
(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2)But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3)Part 1 of schedule 1 makes minor and consequential amendments."

[43] Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental and damages against a tenant (such as the Respondent) under a short assured tenancy such as this.

[58] The Tribunal found the Applicant in all material respects to be a credible and reliable witness in relation to the facts in dispute between the parties in this application, for the reasons earlier explained. In these circumstances, the Tribunal accepted hisr evidence as truthful from his own perspective regarding the areas of dispute between the parties.

[59] The Tribunal found the Respondent in all material respects to be a credible and reliable witness in relation to the facts in dispute between the parties in this application, for the reasons earlier explained. In these circumstances, the Tribunal accepted her evidence as truthful from her own perspective regarding the areas of dispute between the parties.

[60] The evidence of the Applicant regarding the condition of the Property at the end of the tenancy was clearly confirmed by the photographs he produced and referred to. By contrast, the evidence on behalf of the Respondent asserting that the Property was left in good order was clearly contradicted by the photographs.

[61] The Tribunal accepted that the heads of damage which the Applicant claims in terms of the lease agreement, appear to be sought in terms of clauses 3(a) and (c) (to keep the house clean and tidy and to have the windows regularly cleaned, and to keep all fixtures and fittings in good condition), and 5(b) (the landlord is entitled to make good …any damage or defects…).

[62] The Tribunal concluded that the Respondent had not left the house clean and tidy nor the windows properly cleaned, and had not kept all fittings and fixtures in good condition, and that the Applicant was entitled to make good any damage and defects.

[63] That said, the Tribunal considered that an allowance required to be made for fair wear and tear. The Applicant had done so in respect of the carpet, but had not in respect of the redecoration. The Tribunal accepted that the amount of redecoration required exceeded that to "freshen up" the Property after a number of years of fair wear and tear. However, the Applicant accepted that he would ordinarily "freshen up" the paintwork every two to three years (the period of occupation of the Respondent), and accordingly the Tribunal considered that a deduction of 50% (similar to that given in respect of the replacement carpet) was appropriate. The Tribunal accepted, however, that the costs of repairing the scrapes, dents, holes and damage to the interior walls at a cost of £25.00, and cleaning to remove the dirty marks on doors, door handles, electrical switches and surrounds and windows at a cost of £65.00 were reasonable.

[64] With regard to the claim for replacing the silicone seal around the en-suite shower cubicle, the Tribunal concluded that this was fair wear and tear and was not

recoverable. The Applicant accepted that the silicone would need replacing at the least every five years, and it had not been replaced for at least three, and possibly longer.

[65] The tracing fee was incurred by the Applicant as a result, he said, of requiring to trace the Respondent's new address. However, the Applicant and his agents were in e-mail contact with the Respondent, and in none of the e-mails produced did they ever directly ask her to provide her new postal address. In those circumstances, the Tribunal did not consider that this was an expense that could be charged against the Respondent.

[66] That leaves the question for the Tribunal as to whether the Applicant required to waive the two month notice period as a reasonable adjustment in terms of the *Equality Act 2010* (hereinafter referred to as "the Act"). The Tribunal notes its gratitude to Mr Clayson and to the Applicant, for their careful, thorough and detailed written and oral submissions on this point.

[67] Mr Clayson noted that there is an absence of any previous case decisions on the application of the Act to the provisions of tenancy agreements. The Tribunal also found little previous case authority on the points at issue in this application. The decision of the Supreme Court in *Aster Communities Ltd v Akerman-Livingstone* [2015] UKSC 15 did concern the application of the Act to a lease, but related to eviction proceedings to which rather different considerations apply.

[68] Mr Clayson argued solely in relation to the claim for two months' notice, that the Respondent has the protected characteristic of disability as defined by section 6 and Schedule 1 paragraph 6 of the Act, that as a result the Applicant as controller of the let Property required to make reasonable adjustments, and that it was reasonable in the current circumstances to waive the notice period of two months in the lease.

[69] The Tribunal would note that the Respondent provided no evidence regarding her condition. She produced no medical evidence of her diagnosis, nor any indicating the details of her condition and the effects upon her of that. However, as the Applicant did not dispute that she has multiple sclerosis, the Tribunal was content to proceed on that basis.

[70] As Mr Clayson correctly submitted, multiple sclerosis is a disability for the purposes of the Act. The Tribunal also accepts that the first requirement contained in section 20(3) in principle applies in this case, that the Applicant is the controller of let premises, and that the terms of the lease may be the subject of reasonable adjustment.

[71] The key question is whether in terms of section 20(3), the provision in the lease puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled.

[72] The Tribunal notes that Mr Clayson is in error in referring to the provision which provides that sub-paragraph 2 applies only if the controller receives a request from or on behalf of the tenant to take steps to avoid the disadvantage as being contained in paragraph 2(5) of Schedule 4 to the Act. The provision to which he refers is in fact that contained in paragraph 2(6) of Schedule 4 to the Act.

[73] However, paragraph 2(5) of Schedule 4 to the Act is of some assistance in this matter. It defines “a relevant matter” in section 20(3) in this context as being “(a) the enjoyment of the premises; (b) the use of a benefit or facility, entitlement to which arises as a result of the letting”.

[74] Thus, in this case, the Applicant requires to make a reasonable adjustment only if the term of the lease requiring two months’ notice puts a disabled person at a substantial disadvantage in relation to (a) the enjoyment of the property; (b) the use of a benefit or facility, entitlement to which arises as a result of the letting.

[75] It does not appear to the Tribunal that the term does put a disabled person at a substantial disadvantage in relation to either of those. The term is purely an obligation to give a period of advance notice before quitting the Property. The consequence of not doing so is purely financial, as the tenant may have to pay rent for the period of notice if he/she quits without giving such notice. It does not appear to the Tribunal that the term concerns either the enjoyment of the Property, nor the use of a benefit or facility, entitlement to which arises as a result of the letting.

[76] Further and in any event, it does not appear to the Tribunal that the term puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled. The Respondent’s position is that but for her disability, she would not have required to leave the tenancy at extremely short notice. A person who was not disabled would not have found themselves in such a situation where they could not remain in the Property.

[77] However, it appears to the Tribunal that many people who are not disabled might find themselves in a situation where they could not remain in a property for a variety of reasons. Any change of their circumstances, including their income and employment status, might result in their not being able to remain.

[78] As earlier noted, the Respondent produced no evidence as to the consequences upon her of her condition. She produced no evidence concerning her ability to work. She produced no evidence concerning her previous employment and the reasons why she was unable to continue with that. She produced no evidence concerning what, if any, employment she might be fit for, nor any evidence concerning the alternative employment opportunity that she was anticipating and the reasons why that fell through.

[79] The Respondent’s own evidence did not support her submission that she required to leave the Property at short notice as a result of her disability. Rather, she explained that she had not been earning any income for about six months prior to her quitting the Property, and during that period had been paying the rent from savings and borrowing in the hope that she would obtain an alternative position with her former employer which she would be capable of fulfilling. It was as a result of that anticipated employment opportunity falling through that she decided that she would not be able to continue to afford to stay in the Property and left to go and live with her parents for a period, and was not as a result of her disability.

[80] For these reasons also, the Tribunal concludes that the term of the lease requiring notice did not put a disabled person at a substantial disadvantage in comparison with

persons who are not disabled, and that in any event, the Respondent's reason for leaving without giving notice was as a result of her anticipated employment falling through rather than as a result of her disability.

[81] As noted by the Applicant, the e-mail to his letting agent by the Respondent of 2nd October 2018 explaining the reason for her departure without giving notice confirms that where it states "…I'm very upset that it has come to this at the end however I simply do not have the income or financial ability to pay my rent in this flat anymore which is why moving back home is my only option currently…".

[82] In consequence, the Tribunal concludes that the Applicant is not obliged to make any reasonable adjustment to the terms of the lease, and is not required to waive the term concerning giving notice.

[83] For the above reasons, the Tribunal will award the sum of £911.50 in respect of unpaid rent and damages, being the total of the amounts it has found are properly due by the Respondent to the Applicant.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £911.50.

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.

30th September 2020

N. Kinnear

Legal Member/Chair **Date**