



**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/20/1326

Re: Property at 35 Redgrave, East Kilbride, G74 3QY (“the Property”)

Parties:

**Mrs Lorraine Berry, 27 Bloomingdale Drive, Lynseyfield, East Kilbride, G75 8WD
 (“the Applicant”)**

Mr Derek John Cleary, Unknown, Unknown (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for payment be granted in the sum of
£3,984.25 with interest at the rate of 3% until paid.**

Background

This is an application under Rule 70 of the Tribunal Procedure Rules and section 16 of the Act for payment in respect of alleged rent arrears and cleaning/repair costs.

The Tribunal had regard to the following documents:

1. Application received 23 March 2020;
2. Tenancy Agreement dated 18 December 2015;
3. AT5 dated 18 December 2015;
4. Signed Schedule of Condition dated 18 December 2015;
5. Rent Statement;
6. Quotation from Excel dated 28 January 2020;
7. CMD Note dated 19 October 2020;
8. Direction dated 19 October 2020;
9. Date of Entry and Exit Images;

10. Invoice from Excel dated 26 June 2020;
11. Certificate of Service by advertisement dated 12 February 2021.

Hearing

The case called for a Hearing on 12 February 2021. The Applicant did not participate but was represented by her Letting Agent, Mr Doherty. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the proceedings to see if the Respondent would dial – in. He did not.

The Tribunal were satisfied that the Respondent had notification of the Hearing under reference to the Certificate of Service by advertisement dated 12 February 2021. The Respondent was aware that the Hearing could proceed in his absence.

The Tribunal explained the purpose of the Hearing and the process that would be followed.

Having done so the Tribunal heard from Mr Doherty that he had produced the receipts and photographs that had been requested at the CMD and ordered to have been produced by the Tribunal Direction of 19 October 2020. He asked the Tribunal to grant an order for payment in respect of the rent arrears, cleaning and repairs as detailed in the rent statement and the quote/invoice from Excel (including the estimated costs of replacing the carpets). All the work was necessary and entirely due to the neglect of the Property by the Respondent as vouched by the entry and exit photographs and the Schedule of Condition.

The Tribunal asked Mr Doherty if he had any evidence to vouch the cost to the Applicant of replacing the carpets. He informed the Tribunal that the Applicant had been unable to find any documents to vouch the cost. He asked the Tribunal to make an assessment and award an appropriate amount in respect of this.

Mr Doherty also sought interest at the judicial rate (8%) to be applied on any sums found due by the Tribunal.

The Tribunal then considered the documentary evidence it had received from the Applicants and in so far as material made the following findings in fact:

1. The Parties let the subjects under an SAT dated 18 December 2015;
2. The Parties agreed a Signed Schedule of Condition dated 18 December 2015;
3. Photographs were taken at the date of entry and exit;
4. As at the termination of the tenancy the rent was in arrears (less the deposit) in the sum of £1,939.25;
5. The Applicant incurred cleaning and repair costs in the sum of £2,045 for the works as detailed in the invoice and quote from Excel dated 26 June and 28 January 2020;
6. The cleaning and repair costs were necessitated by the neglect of the Property by the Respondent and were reasonably incurred by the Applicant;

7. The Tribunal considered that a reasonable rate of interest on the sums due was 3%.

The Tribunal was satisfied that the rent arrears, cleaning and repair costs (under exception of the estimated costs for replacement carpets) had been established and that the sums sought were due from the Respondent. The Tribunal had no evidence before it to support the cost of replacement of the carpets so was unable to make an award in respect of that head of claim. The Tribunal accordingly granted the application for an order for payment in the sum of £3,984.25.

The Tribunal did not consider the judicial rate of interest of 8% to be appropriate nor reasonable in this case. The application of interest was within the discretion of the Tribunal. The Tribunal considered that 3% was a fair and proportionate rate to apply.

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.


Alan Strain

12 February 2021

Legal Member/Chair

Date