



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/2035

Re: Property at 257E Clepington Road, Dundee, DD3 7UE (“the Property”)

Parties:

Leonard Property Holdings, Suite A4, Skyton Court Coldnose Road, Rotherwas, Hereford, HR2 6JL (“the Applicant”)

Ms Kelly Jamieson, Unknown, Unknown (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

The Applicant seeks a Payment Order to reimburse certain expenses from the Respondent said to have arisen as a consequence of the Respondent’s occupation of the Property under a tenancy between the parties.

At a Case Management Discussion various case management orders had been made seeking further information from the Applicant in respect of the Application. The information requested had been produced by the Applicant in compliance with the Tribunal’s directions.

The Hearing

The Application called for a Hearing by conference call at 10am on 9 April 2021.

The Applicant was represented by Ms Hazel Young of Rockford Properties. There was no appearance by or on behalf of the Respondent. The Respondent's whereabouts could not be ascertained, and the Tribunal had previously granted an Application for service on the Respondent by advertisement on the Tribunal website. Service by that means had successfully been effected on the Respondent on 5 March 2021. The Tribunal therefore considered it fair and reasonable to proceed to hear the Application in the absence of the Respondent.

The Tribunal heard evidence from Ms Young who was the only witness the Applicant wished to have give evidence. Ms Young is the property manager in respect of the Property.

The total sum Ms Young sought to recover in terms of the Payment Order was £1,014.30.

This sum was comprised of various heads of claim which the Tribunal considered carefully in turn.

Rent- £73.47

Ms Young directed the Tribunal to a rent statement that was produced that demonstrated rent arrears outstanding of £73.47. Certain other amounts were shown to have been deducted from the deposit initially paid by the Respondent meaning that now only £73.47 was sought to be accounted for as rent arrears in the Payment Order.

After hearing from Ms Young, the Tribunal was satisfied that this amount was outstanding and was contractually due by the Respondent to the Applicant under the tenancy between the parties. This head of claim was upheld.

Boiler repair call-out charges- £96.66

The Applicant sought the sum of £96.66 which was said to have arisen as a result of unwarranted call outs for boiler repairs by the Respondent that were said to have been unnecessary.

The situation appeared to be that on two occasions the Respondent flagged up repairs said to be necessary to the heating which caused the Applicant to instruct a tradesperson to attend at the Property. On each occasion the tradesperson had found that no repairs were necessary, and it was a simple case of either turning a switch back on or some other trivial matter. Ms Young argued that these costs should be recoverable from the Applicant as a wasted expense. The Tribunal however could not find any contractual basis in the tenancy that supported the position that the Respondent was responsible for these costs. Accordingly, this head of claim was not upheld.

Replacement carpets- £208.20

The Applicant sought to recover £208.20 from the Respondent for the costs of replacing carpets damaged by the Respondent. Ms Young produced an invoice and photographic evidence. The Applicant had also applied a formula whereby they were only seeking to recover 60 per cent of the costs incurred for the replacement of the carpets. This formula was on the basis that the carpets should have had a useful life of five years but instead required to be replaced after two years meaning that they had had their useful life shortened by 60 per cent.

The Tribunal found this formula and approach reasonable. After hearing from Ms Young and considering the written and photographic evidence, the Tribunal was satisfied that this amount was outstanding and was contractually due by the Respondent to the Applicant. This head of claim was upheld

Painting costs £230.40

The Applicant sought to recover £230.40 from the Respondent for painting costs said to have been necessary following on from damage caused by the Respondent. Ms Young produced the invoice and photos of the damage and the checkout report detailing the condition of the Property at the end of the tenancy. Ms Young had applied the same formula to this invoice as referred to in respect of the carpet costs in that only 60% of the costs of the invoice was sought. After hearing from Ms Young and considering the written and photographic evidence, the Tribunal was satisfied that this amount was outstanding and was contractually due by the Respondent to the Applicant. This head of claim was upheld.

Washing machine pipe £60.32

The Applicant sought to recover the sum of £60.32 said to have been necessary because the Respondent damaged a washing machine pipe. After hearing from Ms Young and considering the written and photographic evidence, the Tribunal was satisfied that this amount was outstanding and was contractually due by the Respondent to the Applicant. This head of claim was upheld

Cleaning costs £259.80

The Applicant sought the sum of £259.80 to cover cleaning said to have been necessary at the Property. This figure also included costs attributable to removing a couch and a carpet from the Property and also cleaning the oven. After hearing from Ms Young and considering the written and photographic evidence, the Tribunal was satisfied that this amount was outstanding and was contractually due by the Respondent to the Applicant. This head of claim was upheld

Handyperson costs £85.00

The Applicant sought the sum of £85.00 to cover costs paid to a handyperson to fix handles on doors said to have been damaged by the Respondent. The relevant invoice was for £110.00 but this also included an entry for a bath repair which was not claimed as recoverable from the Respondent.

Ms Young indicated she had asked the handyperson how much it would have been without the bath repair and was informed that it would have been £85.00. After hearing from Ms Young and considering the written and photographic evidence, the Tribunal was satisfied that this amount was outstanding and was contractually due by the Respondent to the Applicant. This head of claim was upheld

Summary of evidence heard.

The Tribunal considered Ms Young to be an entirely credible and reliable witness who had a good knowledge of the Property and the circumstances of the Application. Ms Young had also lodged comprehensive photographs of the Property in support of her position and also provided the Tribunal with a comprehensive check out report which showed the condition of the tenancy once the Respondent had left. The Tribunal went through all of this information carefully with Ms Young before making its decision.

Findings in Fact

Having heard from Ms Young and considered the Application and written and photographic evidence, the Tribunal made the following findings in fact.

- I. *The parties entered into a Private Residential Tenancy Agreement together in respect of the Property which commenced on 11 October 2019;*
- II. *The Applicant was the landlord and the Respondent was the tenant;*
- III. *When the Respondent vacated the Property, there were rent arrears lawfully due to the Applicant of £73.47 which could not otherwise be recovered from the deposit paid by the Respondent;*
- IV. *The Respondent left the Property in a dirty and poor condition;*
- V. *The Respondent damaged the carpets, left staining on the walls, damaged the washing machine plumbing and left a sofa in the Property;*

- VI. *The Applicant had to incur costs to address these issues which were caused by the actions of the Respondent;*
- VII. *The tenancy provides at Condition 26 that: "The tenant agrees to replace or repair (or at the option of the landlord, to pay the reasonable cost of repairing or replacing) any of the contents which are destroyed, damaged, removed or lost during the tenancy";*
- VIII. *The Respondent is contractually liable to the Applicant for the costs of making good the damage occasioned by the Respondent at the Property;*
- IX. *Other than the costs claimed for the boiler repair call out charges, the sums sought by the Applicant in respect of the rent arrears, replacement carpets, painting and decorating, washing machine repairs, cleaning and handyperson services are reasonable and are properly recoverable from the Respondent.*
- X. *The sum of £917.19 is therefore contractually due by the Respondent to the Applicant.*

Reasons for Decision

Having made the above findings in fact, the Tribunal granted the Application to the extent of making a Payment Order in favour of the Applicant against the Respondent in the sum of £917.19. Ms Young did not seek for any interest to run on that sum and accordingly no award of interest was made.

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.

Andrew McLaughlin

Legal Member

Date: 12/04/2021