



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/20/2608

Re: Property at 4 Pit Road, Cowdenbeath, Fife, KY4 9NN (“the Property”)

Parties:

Robb Properties (Scotland) Ltd, Habrema, Old Town, Gateside, Fife, KY14 7SY (“the Applicant”)

Mr Martin Syme, Mrs Donna Syme, 1 Meadowhead Place, Addiewell, West Calder, EH55 8PF (“the Respondents”)

Tribunal Members:

Andrew Upton (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondents are liable to make payment to the Applicant in the sum of SIX THOUSAND NINE HUNDRED AND THIRTY EIGHT POUNDS (£6,938.00) STERLING

STATEMENT OF REASONS

1. This Application called for its second Case Management Discussion by teleconference on 9 April 2021. The Applicant was represented by Mr Jordan Robb. One of the Respondents, Mr Martin Syme, participated in the CMD on his own behalf and on behalf of his wife, the other Respondent.
2. In this Application, the Applicant seeks payment of two sums:-
 - a. £5,025 in respect of rent arrears; and
 - b. £5,350 in respect of loss and damage incurred by the Applicants due to the breach by the Respondents of their repairing obligations under the tenancy agreement.

3. At the previous CMD on 4 March 2021, the parties were agreed that rent arrears were due by the Respondents to the Applicant in the sum of £5,025. It was also accepted by the Respondents that they had breached their repairing obligations under their Tenancy Agreement. Where the parties were in dispute related to the quantification of the Applicant's loss. I observed at that CMD, having regard to the overriding objective in Rule 2 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure to deal with proceedings justly, that the Applicant's loss ought to be quantified by reference to the cost it would have incurred to put the property into the condition it ought to have been left in, rather than seeking a share of a larger renovation project as it was doing at that time. In light of that observation, the CMD was continued to 9 April 2021 to allow the Applicant to consider its claim.
4. On 9 March 2021, the Applicant wrote to the Tribunal seeking to amend the Application by reducing its damages claim to the sum of £2,543. In support of that damages claim, the Applicant produced an itemised costing for the remedial work that would have been required.
5. At the CMD on 9 April 2021, Mr Syme advised the Tribunal that he was generally in agreement with the revised damages claim. However, he objected to three specific items, which were:-
 - a. Digger hire with man to clear the grass area - £250.00
 - b. Top soil and turf - £220.00
 - c. Turf labour - £160.00
6. Mr Syme's position was that whilst some gardening work would have been required at the end of the tenancy agreement, the turfed area was in no worse condition that it was when the Respondents took possession of the property. The Respondent's proposed defence was that those three items, with a total value of £630, represented betterment.
7. Mr Robb advised the Tribunal that, having heard the Respondents' position, he felt that the argument was well made. Accordingly, the Applicant conceded those three items and invited the Tribunal to grant a payment order in respect of the damages claim in the reduced sum of £1,913. Mr Syme confirmed that this was not opposed.
8. Having heard from the parties, the Tribunal was satisfied that the sum of £5,025 was due by the Respondents to the Applicant in respect of rent arrears. Further, the Tribunal was satisfied that the sum of £1,913 was due by the Respondents to the Applicant as reparation for the Respondents' breach of their contractual obligation (at clause 29 of the Tenancy Agreement) not to cause damage by fault or negligence.
9. Accordingly, the Tribunal granted a payment order in the sum of £6,938, being the aggregate of those two sums.

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 Upton

9 April 2021

Legal Member/Chair

Date