



**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/21/1079

**Re: Property at Flat 1/2, 19 Glenelg Quadrant, Easterhouse, Glasgow, G34 0DQ
("the Property")**

Parties:

**Mr Reimar Simmons, Mrs Karen Simmons, 96 Park Avenue, Broadstairs, Kent,
CT10 2EZ ("the Applicants")**

**Mr Francis Alexander Jackson, G/1 2 Dunphail Drive, Glasgow, G34 0BU ("the
Respondent")**

Tribunal Members:

Andrew Upton (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the Respondent is liable to make payment to the
Applicants in the sum of THREE THOUSAND TWO HUNDRED AND SIXTY
FOUR POUNDS AND EIGHTY ONE PENCE (£3,264.81) STERLING**

STATEMENT OF REASONS

1. This Application called for its Hearing by teleconference call on 16 August 2021. The Applicants were both present on the call and were represented by Mr Buttery, solicitor. The Respondent was neither present nor represented.
2. In this Application, the Applicants seek payment of the sum of £3,614.81. That total sum comprises two elements: (i) rent arrears of £2,284.81; and (ii) reparation for loss and damage allegedly caused by the Respondent in the sum of £1,330.

3. The Application previously called for a Case Management Discussion on 29 June 2021. At that CMD, the issues in dispute were narrowed to:-
 - a. Whether payments had been made by the Respondent to the Applicants that had not been accounted for;
 - b. Whether the Respondent was entitled to remove floor coverings and door handles without leaving a suitable replacement;
 - c. Whether the Respondent was liable for redecoration; and
 - d. Whether the Respondent was liable for the damage to the cooker hood and smoke detector.

The Tribunal also issued a direction to both parties to lodge written representations addressing the issues in dispute. The Applicants complied with that direction, but the Respondent did not.

4. On 3 August 2021, the Respondent's solicitor intimated to the Tribunal that she had withdrawn from acting.
5. The Respondent did not appear at the Hearing. Notice of the Hearing had previously been given to the Respondent in accordance with Rule 24.1 of the Tribunal Rules of Procedure. Accordingly, the Tribunal was satisfied that it could proceed with the Hearing in the absence of the Respondent under Rule 29.
6. Mr Buttery began by directing the Tribunal to the Applicants' Inventory of Productions. The final item in that Inventory is an email from the Respondent's former solicitor. The email is marked "without prejudice", but Mr Buttery submitted that, as it contained only expressions of fact and not concessions made purely for the purposes of negotiation, the email did not benefit from legal privilege and could be referred to. The Tribunal accepted Mr Buttery's submission. The email in question stated that the Respondent accepted that the full rent arrears claimed were due, and had only instructed his solicitor to defend the Application on the basis of three matters:-
 - a. The costs associated with the radiator;
 - b. The costs associated with the oven hood; and
 - c. The costs associated with painting.
7. Having regard to the said email, the written representations of the Applicants and the fact that the Respondent was not present to offer any contrary evidence, the Tribunal was satisfied that the Applicant's claim for payment of rent arrears was well made. The Tribunal was also satisfied that the Applicants had incurred costs associated with remedying wants of repair in the property following the Respondent's removal. There was only one matter upon which the Tribunal wished to be addressed, which was the Respondent's liability for redecoration of the Property, and what (if any) of the £350 invoice in respect of same was properly due by the Respondent.

8. However, the Applicants confirmed that they were no longer insisting on payment of the £350 invoice for redecoration, and that the said sum should be deducted from their claim.
9. Accordingly, having regard to the Applicants' evidence, the Tribunal was satisfied that the Respondent had failed to leave the Property in a condition commensurate with the full performance by him of his obligations under clause 2 of the Tenancy Agreement, and that the Applicants' loss and damage associated therewith was the sum of £980.
10. The Tribunal therefore granted a payment order in the total sum of £3,264.81, being the aggregate of £2,284.81 for rent arrears and £980 for loss and damage.

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

16 August 2021

Legal Member/Chair

Date