



**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/22/1781**

**Re: Property at 5/14 (3F4) Bothwell Street, Edinburgh, EH7 5PY (“the Property”)**

**Parties:**

**Kirsten Oxley, David Oxley, 7 Gretna Mews, Edinburgh, EH6 5FP (“the Applicant”)**

**Ms Pamela Donoghue, 2/10 Baltic Street, Edinburgh, EH6 7BW (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for payment in the sum of NINETEEN THOUSAND FOUR HUNDRED AND FIFTY-SEVEN POUNDS AND TWENTY-FIVE PENCE (£19,457.25) with interest thereon at the rate of 8% payable from the date of the decision.**

**Background**

1. By application dated 9<sup>th</sup> June 2022 the applicants sought and order for payment in the sum £19457.25.
2. The applicants lodged with the application the following documents
  - Copy private residential tenancy agreement between parties
  - Rent statement
  - Invoice from Clean and Tidy Home Assist dated 15<sup>th</sup> February 2022
  - Invoice from MSM Locksmiths
  - Invoice from Burton All Recycling Services
  - Emails and bank statements demonstrating payment for sofa.

## **Case management discussion – 10<sup>th</sup> October 2022- teleconference**

3. A case management discussion took place by teleconference on 10<sup>th</sup> October 2022.
4. The applicants were represented by Ms Wooley, Trainee Solicitor, Messrs Bannatyne Kirkwood France &Co. The respondent was not present or represented. Notice of the case management discussion together with the application and associated papers were served on the respondent by Sheriff Officers on 25<sup>th</sup> August 2022. The respondent had been given proper notice of the case management discussion. The Tribunal determined to proceed with the discussion in the absence of the respondent in terms of Rule 29.
5. Ms Wooley sought an order for payment. She advised that the sum comprised the following:
  - £18315.05 outstanding rent arrears
  - £1567.20 paid for redecoration and a deep clean of the property due to the condition the property had been left in by the respondent
  - £270 for clearance of the property as the respondent had not removed her personal items from the property when she left
  - £105 for the cost of changing locks as the respondent had not returned the keys
  - £250 to cover the cost of a sofa which the respondent had removed from the property.

Vouching for these costs was provided as detailed at paragraph 2. The total sum due when the tenancy ended was reduced by the deposit of £1050 which was applied to the debt, leaving the outstanding amount of £19457.25.

6. Ms Wooley advised that the arrears had started to build up prior to coronavirus pandemic. They then continued to build up throughout the period of the ban on evictions with the respondent paying no rent from November 2019 until she left the property. The applicants had no contact from the respondent towards the end of her tenancy. They became aware that she had left the property from neighbours.

## **Findings in fact**

7. Parties entered into a private residential tenancy agreement with a commencement date of 22<sup>nd</sup> February 2019.
8. The rent due in terms of the tenancy agreement was £700 per calendar month.
9. The respondent paid no rent between November 2019 and 3<sup>rd</sup> January 2022 resulting in arrears of £18315.05.
10. The respondent left the property in a poor condition and without returning the keys. She also took a sofa without permission. The cost of returning the property to a tenantable condition amounted to £2,912.20.
11. The tenancy deposit paid by the respondent was applied to the outstanding debt leaving a balance due of £19,457.25.
12. The tenancy ended on 3<sup>rd</sup> January 2022.

### **Reasons for decision**

13. The Tribunal had regard to the papers lodged by the applicant and the verbal submissions of the applicant's representative at the case management discussion. The applicants had provided vouching and invoices together with a rent statement evidencing the sums due.
14. The respondent failed to lodge written submissions challenging the order being sought. The respondent failed to attend the case management discussion in person to oppose an order being granted in the terms sought.
15. In the foregoing circumstances the Tribunal accepted the evidence and submissions of the applicants representative and granted the order as sought with interest at the rate of 8% on the amount sought from the date of the order.

### **Decision**

The Tribunal determined to grant an order for payment in the sum of NINETEEN THOUSAND FOUR HUNDRED AND FIFTY-SEVEN POUNDS AND TWENTY-FIVE PENCE (£19,457.25) with interest thereon at the rate of 8% payable from the date of the decision

### **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.**

# Mary-Claire Kelly

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Legal Member/Chair

10<sup>th</sup> October 2022 \_\_\_\_\_  
Date