



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 70(1) of the Private Tenancies
Housing (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/23/0738

Re: Property at 2/2 96 Saracen Street, Glasgow, G22 5AU (“the Property”)

Parties:

**Turnberry Rented Homes Limited, Turnberry House, 18 Allerdycce Drive,
Glasgow, G15 6RY (“the Applicant”)**

**Miss Audrey Gillies, Mr Niain Craw, 9 Morris Crescent, Blantyre, Glasgow, G72
0BY; 9 Morris Crescent, Blantyre, Glasgow, G72 0BY (“the Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Elizabeth WilliaMiss (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to make an order in the sum of One thousand five
hundred and eighty six pounds and eighty two pence (£1586.82)**

Background

- 1 By application to the Tribunal dated 5 March 2023 the Applicant sought an order for payment against the Respondents in the sum of £1427.74 together with interest in the sum of £159.08. In support of the application the Applicant provided a copy of the tenancy agreement between the parties and a rent statement.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers from the Chamber President agreed that there were no grounds upon which to reject the application. A Case Management Discussion was therefore assigned for the 10 May 2023. A copy of the application paperwork together with notification of the date, time and location of the Case Management Discussion was served upon the Respondents by Sheriff Officers.

- 3 The Respondents subsequently submitted written representations in response which were intimated to the Applicant, who submitted further written representations in response.

The Case Management Discussion

- 4 The Case Management Discussion took place on 10 May 2023. The Applicant was represented by Miss Jennifer Paterson. The Respondents were present. Miss Gillies confirmed that she would speak on behalf of both.
- 5 Having heard from the parties the Legal Member noted the issues to be resolved as *whether the rent payable for the property from 1st October 2022 to 5 January 2023 is lawfully due to be paid by the Respondents to the Applicant*. The Respondents had cited issues of disrepair at the property to support their position that rent was not due, as well as raising issues with the Applicant's conduct towards, and following, the end of the tenancy.

The Hearing

- 6 The hearing took place on 14 August 2023. The Applicant was again represented by Miss Jennifer Paterson. There were no additional witnesses for the Applicant. The Respondents were both present and again Miss Gillies confirmed she would speak primarily on behalf of both. The Respondents confirmed they had three witnesses, namely James Roberts, Robyn Craw and Scott Gillies. The hearing took place by conference call and the witnesses were dialled into the call at appropriate points to give their evidence.
- 7 The Tribunal proceeded to hear evidence from the parties. For the avoidance of doubt the following is a summary of the evidence and does not constitute a verbatim account of what was said at the hearing.

The Applicant

- 8 Mrs Paterson confirmed that she was seeking payment of the arrears that had accrued between October 2022 and January 2023 when the tenancy ended. The tenancy agreement had been submitted with the original application as had a rent statement. The amount sought was £1427.74 together with interest at the rate of 8% under the terms of the tenancy agreement, which amounted to £159.08. The last payment received from the Respondents was on 1 September 2022. The rent for October was not received which was very unusual. On 6th October 2022 Miss Paterson left both tenants a voicemail, and followed this up with an email. She subsequently discovered that she had the wrong email address for Mr Craw, as the email was returned. She referred to the email in the documents submitted by the Applicant. On 12th October 2022 Miss Paterson still hadn't heard anything. She emailed Miss Gillies again and sent a letter to the property address. On 13th October 2022 Miss Gillies had responded and Miss Paterson referred to the response that had been lodged by the Applicant. Miss Gillies informed Miss Paterson of the correct email address for Mr Craw to ensure future emails would be sent to him. Miss Gillies had

advised that she no longer wished to pay rent for the property until she moved out. She wished to remain there rent free and have her deposit returned as the property had suffered from maintenance issues over the years. The Applicant had been unaware that any repairs were outstanding and Miss Paterson asked Miss Gillies to confirm what these were. Miss Paterson emailed Miss Gillies again on 24th October 2023 again requesting confirmation of the maintenance issues. Miss Gillies replied on 25th October to advise that issues with a window had been reported in April 2021 and repairs had not been completed. The property was not wind and watertight as a result. Miss Paterson confirmed that the Respondents had reported this repair in April 2021 and the Applicant had engaged a contractor. It related to a window which formed part of French doors in the living room. Miss Paterson had asked the Respondents to let her know if they did not hear from the contractor.

- 9 Miss Paterson advised that Mr Craw had moved out of the property on or around October 2022. She had offered Miss Gillies a new tenancy agreement in her name alone, and had advised Miss Gillies to contact the local authority in order to get a council tax reduction. Miss Paterson had also advised Miss Gillies that she had contacted the window contractor and that they would be in touch directly with Miss Gillies to arrange access. On 4th November 2022 the contractor had contacted Miss Paterson to advise that they had called Miss Gillies twice but the calls had gone unanswered. Miss Paterson then asked Miss Gillies to contact the contractor directly. There had never been any issue with the Respondents dealing directly with contractors in the past. This was standard practice.
- 10 Miss Paterson noted that the Respondents had raised problems with the boiler in addition to the window. She confirmed that the problem with the boiler was rectified in April 2021 when it was replaced. She referred to an email lodged by the Applicant from Miss Gillies confirming her delight with the work. Miss Paterson believed that all maintenance was completed in a timely fashion by the Applicant. When repairs were reported the Applicant contacted their contractors straight away. Miss Paterson pointed out that there had been no further contact from the Respondents regarding the window from April 2021 until October 2022.
- 11 Miss Paterson confirmed that the property was handed back by Miss Gillies on 6th January 2023. A temporary fix was carried out to the window in February 2023 as it was noted the frame was slightly bowed. However there was no water ingress and no problems with the lock on the door. A joiner had advised that due to the age of the French doors it would be more cost effective to replace them. New tenants had moved in on 3rd April 2023. They were advised of the plan to replace the window, and that the Applicant was waiting for parts to be manufactured. The new tenants were happy with this and the Applicant received no adverse reports regarding the window from them. The French doors were replaced in July 2023.
- 12 Miss Paterson confirmed that a payment plan was offered on numerous occasions to the Respondents in order to address the rent arrears. The Applicant had offered six months however Miss Gillies had offered £50 per

month which would take over two years for the debt to be paid. The Applicant had then offered payment over 12 months. The parties couldn't reach agreement, hence why the Applicant had applied to the Tribunal. Miss Paterson confirmed that the deposit of £550 had been deducted from the sum sought.

The Respondents

- 13 Miss Gillies confirmed that the Respondents were joint tenants of the property between July 2015 and October 2022, at which point Mr Craw had moved out. Miss Gillies remained in the property. She was experiencing financial issues and personal change. She made a request to the Applicant to remain in the property rent free until she was able to move, citing the length of the tenancy and persistent disrepair as the reason for this. Miss Gillies confirmed that the window issue was originally reported in April 2021. The window contractor had come out to the property on the same day as the boiler was replaced. The contractor had advised that he would report back to the Applicant with recommendations and they would be in touch. The Respondents had not followed up on this on the basis that the contractor had indicated that the Applicant had to approve the recommendations before work could start. Miss Gillies confirmed that she had informed the Applicant in October 2022 that the repair was still outstanding. The window was not watertight and did not close properly, nor did it lock properly. The Respondents had to keep a sofa in front of it in case it opened.
- 14 Miss Gillies advised that no contractor had come out in October to inspect the window. She confirmed that she had refused access on one occasion towards the end of October due to illness. It was not safe for someone to come into the house at that point. She then sought advice from her tenant union. She advised that she suffered from a disability that made it difficult for her to plan things in advance and contact people. She also had trouble understanding things in a logical way. Miss Gillies had contacted Shelter Scotland, a suggestion from Miss Paterson. Shelter had recommended that she try and contact the Applicant to discuss the arrears with them directly as well as any repayment plan. Following that advice, and working with her tenant union, Miss Gillies had requested a meeting with the Applicant on 22 November 2023. The request was refused. A second letter was sent by the tenant union to the Applicant on 4 December 2023 confirming that Miss Gillies would move out by 1st January 2023. It was agreed that the deposit would be retained by the Applicant. Miss Gillies had hoped the deposit would be a sufficient contribution to the arrears and a line could be drawn under the situation. However she felt that the Applicant treated her with hostility and contempt, in a situation where she was facing acute issues and suffering with her disability. Miss Gillies confirmed that a third letter had been sent to the Applicant on 25th January 2023, after she had left the property, again requesting a formal meeting to discuss the issues. A meeting date was proposed but this was not accepted by the Applicant. They wanted to impose a payment plan on the Respondents, they were not interested in negotiation.

- 15 Miss Gillies confirmed that she had vacated the property on 6th January 2023. There was a delay due to public holidays and the closure of the Applicant's office over the festive period. Miss Gillies referred to the check out process where the issue with the window was highlighted by the member of staff who carried out the handover. Miss Gillies confirmed that she had moved back in with her parents and was sleeping on the sofa. It was not ideal. She was working from home to accommodate her disability. After moving in her father was diagnosed with cancer. She made the Applicant aware of this after they finally secured an in person meeting.
- 16 The meeting between the Applicant and Miss Gillies took place on 21st February 2023, after she and her tenant union had attended the Applicant's office with signs requesting the meeting. She was accompanied by her tenant union representative James Roberts. The purpose of the meeting was to discuss the issues and reach an agreement. However the tone of the meeting was quite hostile. Miss Paterson was presented and accompanied by a Director of the Applicant. He became quite confrontational. He had not been involved with the Respondents' tenancy up until this point. Miss Gillies had explained the impact of the window disrepair in terms of her enjoyment of the property. The Respondents couldn't sit in the living room without blankets because it was so drafty and there was a security risk due to the faulty lock. It had affected her mental health. The Applicant was aware of the issues Miss Gillies was facing but continued to pursue the debt. After seven years in the tenancy, during which payments had been consistently made, this felt like a slap in the face. The Applicant was still downplaying the issue with the window, and had mentioned that the window was still to be inspected. It was clear from the check out photos that the window was damaged and corroded. However the Applicant stated that they couldn't tell if there was damage. Miss Gillies advised that she had received no missed calls from any contractor in October 2022 regarding the window.
- 17 Miss Gillies advised that a further meeting was scheduled for 1st March 2023, at which Miss Gillies had gone through her income and expenditure with the Applicant. She explained that her disposable income was £105 per month and she could therefore only afford £50 per month towards the debt. This was met with hostility and she was threatened with a wage arrestment by the Applicant. Miss Gillies had gotten quite upset. She had been trying to make contact and discuss the situation with the Applicant for months, but couldn't get a meeting until showing up at their office to demand this. The Applicant was imposing a payment plan with no room for compromise. The Applicant confirmed at the meeting that they would be applying to the Tribunal. It appeared that this was their plan all along. There was no will to discuss reaching an agreement. The Applicant wanted to pressure Miss Gillies into reaching an agreement. Miss Gillies confirmed that the Respondents had not made any payments on the basis that the Applicant was taking them to the Tribunal. In addition every extra bit of money she had was going to support her family.
- 18 Miss Gillies concluded by stating that the Respondents did not believe they were liable for the full amount sought by the Applicant in light of the issues of disrepair and treatment from the Applicant. The property did not meet the

repairing standard from April 2021 until January 2023 when she left. The reason the Respondents had not raised the payment of rent prior to October 2022 was they felt this would be a gesture of good faith given the length of time they had been in the property. They hoped it could be settled with a discussion. However the Applicant was not willing to work towards an agreeable solution. Miss Gillies had been subject to discrimination and intimidation at meetings with the Applicant.

- 19 Miss Gillies also noted she had received a phone call from an unknown caller in December 2023 who knew her name, and the fact that the property would be vacated soon. Only her parents, her partner's parents and their siblings knew she was vacating the property. Miss Gillies believed the call was linked to the Applicant. She did not share her phone number with neighbours. The name given by the caller, who had also contacted Mr Craw, was the same person employed by a Council organisation with connections to the Applicant's business. Miss Gillies had called the Police, who had recommended she have family and friends stay with her. She had been terrified and was scared to go out alone. She had subsequently blocked the number. Miss Gillies further advised that she had received an email from the Applicant on 23rd March 2023 to say a parcel had arrived at the property and she had until 5th April 2023 to collect it. However she didn't want to attend the Applicant's office. Ahead of the Case Management Discussion she had received a missed call from the Applicant on 24th April. The Applicant had said this was to discuss returning the parcel which would otherwise have been disposed of.
- 20 The Tribunal took the opportunity to ask questions of the Respondent. Mr Craw confirmed that he did not give written notice to the Applicant when he left the property and fully accepted that he remained a joint tenant until the termination of the tenancy in January 2023. He advised that he was currently unemployed and had received no income since October 2022 when he received his final salary following a dispute with his old employer. He had been given an opportunity to obtain an educational loan to study business management abroad. He had succeeded in getting a loan of 3000 euros for his living expenses however he received nothing from the UK government. Other than the loan he had no income whatsoever. He was living in Germany but had been unable to find employment.
- 21 Mr Craw confirmed that he stopped working in October 2022 and his income had been paid towards the rent. Mr Craw discussed the issues with the window. He confirmed that there had been an issue in 2016 with the seal which had been addressed. In April 2021 it appeared water was coming in. The French doors were locked but wouldn't close properly. When he opened the doors to look at the issue it wouldn't lock again when closed. Mr Craw confirmed that the property was on the second floor. The person who had carried out the check out on behalf of the Applicant when Miss Gillies left the property in January 2023 noticed water damage next to the French doors and cracks due to flooding. The Respondents acknowledged that water would only come in when it was windy. They had tried to remedy that by rolling up towels and placing them along the bottom of the door. The fact that door didn't lock was a concern. The Respondents confirmed that they did not contact the Applicant regarding

the issues with the window between April 2021 and October 2022. They were unsure about how contractors would work during a period of lockdown and thought the Applicant might be on a waiting list. They felt it was the landlord's responsibility to carry out repairs when they are advised of an issue with a property. It was not for the Respondents to do so.

- 22 The Tribunal then heard from the Respondents' witnesses. Mr James Roberts gave evidence first. He confirmed that he had been working with Miss Gillies since October 2022. At that time he was the neighbourhood organiser for the Partick branch of Living Rent. His role was working with branch members around member defence to support them in organising accountability for their landlords when they are having issues. Mr Roberts understood Miss Gillies had been having issues with the Applicant for some time and was having difficulties securing a meeting to seek a resolution. Mr Roberts was tasked with working with Miss Gillies and other members to secure a face to face meeting. Up until that point the Applicant was not prepared to offer this however a meeting was finally arranged when Miss Gillies attended the Applicant's office and sought media coverage to assist. The Applicant had previously been very difficult and hostile towards the idea of a meeting.
- 23 Mr Roberts confirmed that he had attended the meeting and his role was to support Miss Gillies whose aim was to seek accountability from the Applicant and get them to accept responsibility for long neglected repairs with a view to negotiating what an acceptable amount of arrears would be. The Applicant's staff who were present at the meeting didn't take any responsibility and didn't want to have an honest negotiation about the arrears. They were not interested in what was affordable for Miss Gillies. What they offered would have financially crippled Miss Gillies. Mr Roberts confirmed that he had not been in the property at any point. He understood that there were repairs outstanding in relation to windows which didn't seal and left the property insecure.
- 24 The Tribunal proceeded to hear from Mr Craw's sister Robyn Craw. Miss Craw confirmed that she had helped Miss Gillies when she left the property in January 2023 and was present for the handover as a witness and support for Miss Gillies. Miss Gillies was quite stressed and upset. A representative from the Applicant had attended the property. They were happy with the cleanliness. Miss Gillies showed the representative the issues with the French door which was not watertight. The lock was corroded. This was all noted down. Miss Craw confirmed that during the Respondents' tenancy she was not in the property very often but she did visit. When the rain was heavy there would be water ingress around the French doors. Miss Craw explained that the Respondents did use the living room but because the French doors were not secure they had to keep things away from the window.
- 25 The Tribunal then heard from Scott Gillies, the brother of Miss Gillies. He confirmed that Miss Gillies had mentioned in April 2021 that there was an issue with the property in that there was a window that wasn't closing properly. This was causing water damage. The Applicant had been notified and the repair was completed until the Respondents moved out. Miss Gillies discussed with the Applicant what this would mean for her arrears. Mr Gillies and other family

members had helped Miss Gillies move out and noticed some water damage around that area. There was some rusting to the window frame and the seal was broken which made it difficult to close and lock the window. Mr Gillies also explained that Miss Gillies had received a distressing call leading up to her departure from the property asking about availability. The caller said he had obtained her number from the neighbours however Miss Gillies had never given out her number. This caused her mental distress. She was concerned for her own safety and struggled to leave the house. Mr Gillies confirmed that he had assisted his sister financially to support her.

Closing submissions

- 26 The Tribunal gave both parties the opportunity to make any final submissions.
- 27 Miss Paterson addressed the Tribunal on behalf of the Applicant. She stated that it was correct that the Applicant had initially refused a meeting with Miss Gillies and her tenant union. At that point the Applicant didn't know the whereabouts of Mr Craw, nor whether he was still liable. They preferred to communicate by email as the correspondence would be sent to both parties. They had no objection to Miss Gillies sending on correspondence to Living Rent but they wanted to ensure that Mr Craw was aware of any discussions. The Applicant knew that Mr Craw had left the property but didn't know where he was. Miss Gillies and members of her tenant union had arrived at the Applicant's office to demand a meeting, which they did eventually get.
- 28 Miss Paterson confirmed that the issue with the window had been reported in April 2021. She had contacted the window contractor immediately and understood action had been taken. The evidence showed that upon being made aware again of the issue in October 2022 the Applicant had since taken action to address the fault and rectify it. Miss Paterson advised that she knew nothing about the call Miss Gillies had received in December 2022. There was no reason for the Applicant to disclose her number to the person in question. Miss Paterson advised that when Miss Gillies initially contacted them in October 2022 to ask for a rent free period they had offered to reduce her notice period from 2 months to 1 month to prevent her debt from exceeding. She initially had an exit date of 19th December 2023 however that had been extended twice. Miss Paterson confirmed that the Applicant had not been able to view the condition of the window until they gained access for the check out. The Respondents had previously been happy to deal with contractors directly and the Applicant had been authorised to give contractors their phone number. The Respondents had never said they didn't want this to happen.
- 29 Miss Gillies explained that the Respondents had continued to use the living room, despite the issues with the window, because they couldn't use either of the bedrooms, which were utilised as a bedroom and office. Miss Gillies advised that she had no issue with her number being given to contractors. She noted that her mobile number had been incorrect on the application to the Tribunal and she could not therefore be confident that the contractor had the correct number. The contractor who had attended the property in April 2021 to inspect the window should have passed on evidence of the damage to the

Applicant. The Respondents trusted he would do this. Miss Gillies stated there was a long history of repairs being reported and taking too long to get fixed, therefore it would be the norm for it to take a while for repairs to be done. It was the Applicant's duty to ensure the window was fixed. Miss Gillies also explained that her disability fluctuated. Sometimes it was easy for her to manage things, other days it was difficult. The Respondents didn't chase up with the Applicant due to Miss Gillies coming to terms with her disability and the financial issues they were facing. Miss Gillies' family situation had changed considerably and she could no longer do things she could previously do. She felt this wasn't taken into account by the Applicant. Ultimately tenants were responsible for reporting repairs and landlords had an obligation to carry out works within a reasonable period of time. Persistent issues with disrepair at the property had led to the current situation.

Findings in Fact

- 30 The Applicant and Respondents entered into a short assured tenancy agreement which commenced on 17 July 2015. The tenancy was for a period of one year and continued monthly thereafter by tacit relocation.
- 31 In terms of Clause 5 of the said tenancy agreement the Respondents undertook to make payment of rent in the sum of £550 per month. Clause 5 further entitles the Applicant to seek interest on any rent unpaid within 14 days of the date due at the rate of eight per cent per annum.
- 32 The rent was increased to £625 from 1st April 2022. In terms of Clause 5 of the said tenancy agreement the Applicant requires to give two months notice of any rent increase. The increase was intimated to the Respondents on 26th January 2022.
- 33 On 18 July 2015 the Respondents emailed the Applicant to report a problem with the cooker and hob. The Applicant engaged a contractor on 21 July 2015. The cooker and hob were inspected that day. The cooker and hob was replaced on 14 August 2015.
- 34 On 29 July 2015 the Respondents emailed the Applicant to report a problem with the freezer. The Applicant engaged a contractor on 30 July 2015. A new freezer was fitted on 14 August 2015.
- 35 On 2 August 2015 the Respondents emailed the Applicant to report a problem with the washing machine. The Applicant engaged a contractor on 4 August 2015. The contractor inspected the washing machine on 14 August 2015. On 16th October 2015 the Respondents contacted the Applicant again regarding the washing machine. The Applicant engaged a contractor that same day. On 4 November 2015 the Respondents sought an update. The contractor subsequently contacted the Respondents to provide advice regarding use of the machine.

- 36 On 24th October 2016 the Respondents emailed the Applicant to report a problem with the washing machine. The Applicant engaged a contractor on 25th October 2016. The Respondents sought an update on 28 October 2016. The Respondents subsequently obtained a contact number for the contractor. The contractor inspected the machine on 3 November 2016. The Applicant was advised to replace the machine. The Applicant ordered a new washing machine. On 23 November 2016 the Applicant cancelled the order due to delay. A new machine was subsequently purchased and fitted.
- 37 On 29th September 2015 the Respondents reported a damp carpet in the bedroom. The Applicant notified the site manager who contacted the Respondents and advised he would arrange a plumber. The Respondents sought an update on 7 October 2015. The Applicant ordered a replacement carpet on 20 October 2015. The Respondents subsequently arranged the fitting of the new carpet directly with the contractor.
- 38 On 4th January 2016 the Respondents reported an issue with the switch in the ensuite shower. The Applicant engaged a contractor that same day.
- 39 On 24th October 2016 the Respondents reported a problem with the window seal in the living room. The Applicant reported the issue to the site manager on 25th October 2016. The Applicant subsequently received confirmation that the works had been completed.
- 40 On 4 August 2020 the Respondents contacted the Applicant by email to report a problem with water leaking into a property below. The Respondent requested her details be passed to an emergency plumber to arrange access. The Applicant forwarded on the Respondents' contact details as requested.
- 41 On 5 February 2021 the Respondents contacted the Applicant by email to report problems with the boiler. The Applicants engaged a contractor that same day who attended the property and found the boiler to be working. On 10th February 2021 the Applicants instructed the contractor to replace the boiler. On 12th April 2021 the Respondents emailed the Applicant to report a leak into the property below. The Applicant engaged contractors who attended the property that same day. The boiler was replaced at the end of April 2021.
- 42 On 12th April 2021 the Respondents reported a problem with the window seal in the living room. The Applicants engaged a contractor and advised the Respondents of this by email dated 15th April 2021. The Respondents were asked to contact the Applicant if they did not hear anything from the contractor.
- 43 On 12th October 2022 the Applicant emailed the Respondents to advise that rent for October 2022 had not been paid.
- 44 On 13th October 2022 the Respondents emailed the Applicant. The Respondents reported that the window in the living room was not wind and watertight.

- 45 On 14th October 2022 the Applicant responded by email to the Respondents. The Applicant offered to reduce the notice period from two months to one month in light of the Respondents' financial circumstances. The Applicant asked the Respondents to confirm that the window repair was still outstanding.
- 46 On 24th October 2022 the Applicant emailed the Respondents requesting a response to the email of 14th October 2022. The Respondents sent an email that same day confirming that the window repair was still outstanding. On 25th October 2022 the Applicant emailed the Respondents to confirm that the contractor or a member of the Applicant's team would be in touch regarding the window. The Respondents acknowledged this by email that same day. On 4th November 2022 the Applicant emailed the Respondents to advise that the contractor had been trying to make contact and provided his mobile number for the Respondents to call him back.
- 47 The tenancy between the parties terminated on 6th January 2023. As at the date of termination rent arrears in the sum of £1427.74 were outstanding, following deduction of the deposit.
- 48 A check out process was carried out with the Respondent and a family member present, along with a member of the Applicant's team. It was noted that the window still required repair.

Reasons for Decision

- 49 The Tribunal was satisfied, following the hearing, that it has sufficient information upon which to make a decision on the application. In doing so the Tribunal took into account the application paperwork, the written representations from both parties, and the evidence led at the hearing. For the avoidance of doubt the Tribunal did not place significant weight on the evidence from both Robyn Craw and Scott Gillies as it was noted that both were family members of the Respondents, and therefore would be partly reliant on what they had been told by both.
- 50 The Tribunal had sympathy for the position the Respondents had found themselves in, particularly Miss Gillies. It was clear that they had fell into financial difficulty in October 2022 when Mr Craw left the property and that seemed to be the logical reason for the cessation of rent payments, as opposed to their dissatisfaction with the condition of the property. The Tribunal accepted that there had been repairs required during the term of the tenancy, however that would be expected in a tenancy which ran for over seven years. The email correspondence that had been lodged satisfied the Tribunal that when repairs had been reported to the Applicant works had, with the exception of the window, been completed timeously.
- 51 The Respondents had last reported the issue with the window to the Applicant in April 2021. The Applicant had arranged to send out a contractor. This was a matter of agreement between the parties. However for reasons unknown the

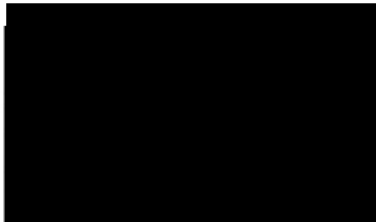
contractor had then failed to report back to the Applicant. The Respondents did not then chase up the works until October 2022 when their financial situation deteriorated. The Tribunal therefore found it difficult to accept that the issue with the window was having the impact the Respondents had described, particularly when they had continue to live with it from April 2021 until October 2022, without chasing up the repair with the Applicant. Whilst the Tribunal accepted that it was the Applicant's responsibility to carry out repairs once notified, the Tribunal also accepted that there could have been an oversight in the contractor failing to report back following his inspection. It was clear that the Respondents had chased up repairs in the past when they remained outstanding and there was nothing in the evidence before the Tribunal to suggest any reluctance on the Applicant's part to carry out repairs where required.

- 52 When the issue with the window was raised again by the Respondents in October 2022 the Applicant immediately contacted the contractor and, as had been previous practice, arranged for him to get in touch with the Respondent directly. The Tribunal noted that Miss Gillies had indicated that, due to her disability, her situation had changed and she was finding it difficult to deal with things that she would previously have managed. However the Tribunal did not find any evidence that the Applicant had been advised of this, and that the previous arrangement whereby the Respondents would liaise with contractors was no longer workable. By providing the Respondents with the contact number for the contractor it would be reasonable for the Applicant to assume that the Respondents would get in touch with him.
- 53 The Tribunal therefore concluded that the delay in carrying out the window repair did not amount to a breach of the Repairing Standard and therefore there were no grounds upon which to establish a claim for abatement of rent. On that basis the Tribunal was satisfied that the Respondents were liable to pay rent arrears in the sum of £1427.74 under the terms of the tenancy agreement between the parties. The Tribunal was further satisfied that the
- 54 Finally the Tribunal considered the telephone call to Miss Gillies in December 2022. Whilst the Respondents had alluded to a connection between the person calling and the Applicant it was not sufficient enough to persuade the Tribunal that there had been any malicious conduct on the Applicant's part. The Tribunal also noted the evidence led regarding the Respondents' attempts at negotiations prior to, and following, the end of the tenancy. The Tribunal took the view that Applicant could have shown greater compassion and understanding for the Respondents' position, particularly as long term tenants who had, up until October 2022, consistently met their rental obligations. However the circumstances surrounding any negotiation, and the question over the identity of the caller, was not in the view of the Tribunal relevant to the Respondents' liability for rent under the contractual terms of the tenancy agreement. The Tribunal therefore made no findings in respect of these matters.

- 55 The Tribunal therefore determined to make an order in the sum of £1586.82, being rent arrears in the sum of £1427.74 together with interest at the rate of 8% under the terms of the tenancy agreement, which amounts to £159.08.
- 56 As an observation the Tribunal would hope that the Applicant will take account of the Respondents' current circumstances and enter into reasonable negotiations with a view to agreeing any payment plan for repayment of the sum sought, particularly given the history of good behaviour throughout the tenancy. It is however for parties to discuss and agree any plan following the granting of this order.
- 57 The decision of the Tribunal was unanimous.

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.



Legal Member/Chair

20 September 2023

Date