



**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/20/2184

**Re: Property at 24 Craighead Road, Milton of Campsie, Glasgow, G66 8DL (“the
Property”)**

Parties:

Mr Ross Kerr, 64 Seebohm Mews, York, YO31 0SJ (“the Applicant”)

**Mr Christopher Campbell, sometime 24 Craighead Road, Milton of Campsie,
Glasgow G66 8DL, whose present whereabouts are unknown (“the
Respondent”)**

Tribunal Member:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be decided without a Hearing
and made an Order for Payment by the Respondent to the Applicant of the sum
of £2,378.06.**

Background

By application, received by the Tribunal on 14 October 2020, the Applicant sought an Order for Payment against the Respondent. The sum sought was £2,744.66, being £944.66 in respect of unpaid rent, £850 for repairs and painting, £150 for cleaning and £800 in respect of loss of rent.

The application was accompanied by a copy of a Private Rented Tenancy Agreement between the Parties commencing on 18 October 2019 at a rent of £400 per month with a £400 deposit, and a Rent Statement showing arrears as at September 2020. He also provided a number of photographs showing the condition of the Property after the Respondent vacated it, an undated quotation from Keith Kiernan decorators for painting the lounge, bedroom, hall, kitchen and bathroom of the Property (£850), an Invoice, dated 3 November 2020, for £100 for deep cleaning of the Property and an

Invoice, dated 5 November 2020, for £60 for cleaning the carpets. The view of the Tribunal was that the deterioration in the Property was beyond fair wear and tear. On 25 November 2020 the Tribunal advised the Parties of the date and time of a Case Management Discussion and the Respondent was invited to make written representations by 16 December 2020. The Respondent did not make any written representations to the Tribunal. As his whereabouts were unknown, intimation to the Respondent was by way of advertisement on the Tribunal website from 25 November 2020 to 8 January 2021. The Applicant adjusted the amount of his claim to increase the cleaning costs from £150 to £160 and to include the cost (£23.40) of an unsuccessful tracing search carried out by Nationwide Tracing. He provided their Invoice of 5 November 2020 in support of his claim. This increased the amount sought by the Applicant to £2,778.06.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the afternoon of 8 January 2021. The Applicant participated in the call, but the Respondent was not present or represented. The Applicant asked the Tribunal to grant the Order for Payment without a Hearing. He told the Tribunal that the walls throughout the Property had been left in a terrible state and that redecoration rather than touching up or localised painting had been necessary. He confirmed that the Respondent had vacated the Property on 28 August 2020. He did not have to hand the information as to the date on which a new tenant moved in.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

The Tribunal noted the photographs provided by the Applicant. The Tribunal agreed with the Applicant that the deterioration in the Property was beyond anything that could be regarded as fair wear and tear. The carpets were badly stained, there was a broken curtain rail, damage to the fire surround and to the tile trim in the bathroom. The toilet, wash hand basin and bath were all filthy, as was the oven. There was also damage to kitchen cupboard doors and a windowsill and the fridge door handle was broken. The Tribunal was satisfied that the Applicant was justified in instructing a deep clean of the Property and was entitled to recover the cost from the Respondent. The Tribunal decided, on balance, that the cost of redecoration was also justified, given the condition in which the Property had been left and that, as the tenancy that had only lasted for ten months, no deduction should be made to reflect fair wear and tear. The Tribunal also accepted that it was reasonable for the Applicant to seek to recover the cost of the attempt to trace the Respondent, who had vacated the Property without providing a forwarding address.

The Tribunal then considered the Applicant's claim for loss of rent resulting from the requirement, as a consequence of damage caused by the Respondent, to carry out repairs and redecoration prior to a new tenant moving in. The Respondent had vacated the Property on 28 August 2020 and, even if redecoration, deep cleaning and repair works had not been necessary, the view of the Tribunal was that it was unlikely that a new tenant would have moved in before the end of September. By the time of the application (received on 14 October 2020), the redecoration appeared to have been

carried out, as the cost was included in the claim, although the bills for cleaning were dated 3 and 5 November 2020.

The Tribunal noted the email from the Applicant dated 9 November 2020, in which he stated that a new tenant was moving in that day. Summarising, the Property was vacant from 28 August to 9 November 2020. The Tribunal had to form a view as to the period, if any, of delay in re-letting that could reasonably be regarded as attributable to the necessity of carrying out works which would not have been required had the Respondent met his obligation to take reasonable care of the Property. Having carefully considered all the evidence before it, the view of the Tribunal was that the Applicant had been denied the opportunity to re-let the Property for a period of approximately one month, namely the month of October. Accordingly, the Tribunal's Order would include the sum of £400 in respect of loss of rent.

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.

George Clark
Legal Member/Chair

8 January 2021
Date