



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 Housing (Scotland) Act  
2014**

**Chamber Ref: FTS/HPC/CV/21/0021**

**Re: Property at Forge Park, Canonbie, DG14 0UX (“the Property”)**

**Parties:**

**Mr Paul Lumb, Mrs Deborah Lumb, Oak Bank House, Canonbie, Dumfriesshire,  
DG14 0UX (“the Applicants”)**

**Mr Alan Martin, Mrs Dana Martin , 23 Alderly Terrace, Canonbie, DG14 0UP  
 (“the Respondents”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)  
Angus Lamont (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an order for payment in the sum of £2463.04 should  
be granted in favour of the Applicant against the Respondent.**

**Background**

1. By application dated 4 January 2021, the Applicants seek a payment order in relation to arrears of rent and the cost of re-instating the property at the end of the Respondents’ tenancy. The Applicant lodged documents in support of the application including a tenancy agreement dated 28 March and 16 June 2015, photographs, rent statement and a list of repair works with estimates of the cost of carrying these out.
2. A copy of the application and supporting documents were served on the Respondents. Both parties were notified that a case management discussion

("CMD") would take place by telephone conference call on 25 February 2021 at 2pm and that they were required to participate. Prior to the CMD the Respondents lodged written submissions and several documents. The Applicant also lodged documents.

3. The case called for a CMD on 25 February 2021 at 2pm. Both Applicants and both Respondents participated.
4. The Legal Member noted that the Applicants are seeking a payment order for the sum of £5941.98. £1775 of this relates to rent arrears and the remainder is for re-instatement work at the property due to the condition of same at the end of the tenancy. This comprises – £1715 for re-decoration, £528 for flooring, £325.38 for electrical work, £186.99 for joinery work, £605 for cleaning, £414.68 for plumbing and tiling, £191.93 for replacement blinds and £200 for clearing out the loft. The Legal Member was advised that the tenancy ended on 5 September 2020 and the sum claimed for unpaid rent relates to rent outstanding on that date. Most of the re-instatement work has not yet been carried out due to the pandemic. As a result, the claim for re-instatement work is largely based on estimates. The Applicants also confirmed that they have not yet deducted the tenancy deposit of £500, although this was retained by them.
5. The Respondents advised the Legal Member that they do not dispute that rent of £1775 was unpaid at the end of the tenancy. However, they dispute that it is due. This is because the Applicants failed to carry out essential repairs at during the tenancy and they believe that they are entitled to an abatement of rent to reflect this. The Respondents also dispute that they caused damage to the property or that the Applicants have incurred (or will incur) costs in re-instating it to its pre- tenancy condition.
6. The Legal Member noted that the parties were agreed that the rent for the property had been increased to £525 per month in October 2017.
7. The Legal Member determined that the application should proceed to a hearing. Both parties were directed to submit written representations prior to the hearing.
8. The parties were notified that a hearing would take place by telephone conference call on 16 April 2021 at 10am. Prior to the hearing both parties lodged written submissions and documents. The application called for a hearing on 16 April 2021. All parties participated.

## **The Hearing**

### **Preliminary Issues**

9. The Tribunal noted that the Respondents had not received a copy of the Applicants' submissions. In addition, the Applicant had submitted copies of

invoices in a format which the Tribunal IT system was unable to accept. The Tribunal adjourned the hearing to allow these documents to be re-submitted and circulated to the parties and the Tribunal.

10. The Applicants' submissions state that they have now carried out some of the re-instatement work. As it has been difficult to arrange for contractors to attend, they have carried out the work themselves. They provided the Tribunal with copy receipts for the materials, a list of the materials used and details of the number of hours spent by them on the work. As the Legal Member had indicated at the CMD, the Tribunal advised that it would be reluctant to make a payment order for work which the Applicants have not yet carried out. The Applicants advised that they were prepared to restrict their claim to the work actually carried out and did not wish to continue the hearing to a later date when all planned work might be completed.
11. The Respondents stated in their written submissions that they dispute the rent charge specified in the rent statement. This conflicts with their statement at the CMD when they confirmed that the rent had increased to £525 in 2017. They advised the Tribunal that part of their defence to application is that they have overpaid rent by £15 per month since 2017. The Applicants stated that the lease dated 2017, which included the increased rent, had not been signed. However, they said that they had also given notice of the increased rent by letter issued to the Respondents. Furthermore, the Respondents had agreed to the higher figure. As the Respondents had departed from their position on the rent charge since the CMD, the Tribunal allowed the Applicants to submit a copy of the rent increase letter, although this had not been submitted in advance of the hearing.
12. The Tribunal noted that one of the Respondents' emails to the Tribunal states that they are seeking to offset sums spent by them on chimney sweeping and gutter cleaning, against any sums due to the Applicants. The Tribunal advised that a separate application would be required to be submitted by them if they wished to claim these sums from the Applicants.

## **Rent arrears.**

### **The Respondents evidence**

13. The Respondents advised the Tribunal that they had paid rent at the rate of £525 from October 2017. They did so because they thought they had to, in terms of the new lease. However, as the Applicants have now stated that this lease was never signed, they have realised that the higher rent was paid in error and that they have overpaid for almost three years. The Respondents also advised that they had signed the 2017 lease, even if the Applicants did not. They did not receive the rent increase letter submitted by the Applicants and have never seen it before. They did not agree to the increased figure, they paid

because they thought that they had no choice.

**14.** The Respondents referred to their written submissions regarding repairs not carried out during the tenancy, for which they claim abatement of rent. The Tribunal noted the following evidence: -

- (i) A leak was reported on 26 February 2019. It was fixed on 3 March 2019. Mr Lumb said he would return to re-paint the ceiling and replace the smoke alarm which had sustained water damage. He did not do so. An electrician who came to the property said that the smoke alarm should be replaced. Mr Martin told Mr Lumb what the electrician had said. The water damage on the ceiling can be seen in one of the photographs. Mr Martin does not know if the alarm was working as worked as he did not test it.
- (ii) The Respondents had new linoleum fitted in the kitchen. It cost them £327. This was damaged by broken floorboards. This was reported to Mr Lumb in April 2018, but the linoleum was not replaced. Mr Martin advised the Tribunal that the linoleum was fitted by a reputable company. The damage to it was reported to Mr Lumb, either in person or on the phone. Mr Martin accepted that a small amount of damage was caused by the Respondents moving things in the kitchen, but most of the damage was due to the damaged and uneven floor.
- (iii) The windows in most rooms were draughty, with cracks around the windowsills. This led to higher heating costs. This was reported to Mr Lumb in November 2017. Mr Martin advised the Tribunal that Mr Lumb carried out some repairs, but they made further complaints on several occasions which were never addressed. The windows in the kitchen, living room and both bedrooms were affected. They could see daylight through one of the frames. In response to questions from the Tribunal, Mr Martin confirmed that they did not advise Mr Lumb that they would withhold rent because of the failure to fix the windows. He also confirmed that they did not put any of their complaints in writing. For a long time, they paid their rent in cash and would generally raise any repairs matters with Mr Lumb when they met to hand over the rent.
- (iv) The electricity frequently tripped. This was reported in January 2019. Mr Lumb did not investigate or arrange for an electrician to attend. It was very inconvenient because the fuse box was in the garage and could only be reached with a ladder. Mr Martin confirmed that this was reported verbally. Over the last year Mr Lumb has used the pandemic as an excuse for not arranging for an electrician to attend. In response to questions from the Tribunal, Mrs Martin said that the problem could occur daily and then not for a few days. It was not associated with the use of any particular electrical appliance. Mr Martin didn't ask the electrician who came to the house in connection with the shower switch, to look at the problem. He was not contacted at any time by an electrician instructed by Mr Lumb.
- (v) The cooker was faulty and the seal on the oven door broken. It was a very old built-in cooker. This was reported verbally in November 2018 and never

repaired. Mr Martin confirmed that the cooker could be used but it was not in full working order and lot of heat escaped from it. When he raised it with Mr Lumb, he suggested they get rid of it and buy a replacement themselves.

- (vi) There were cracks in the ceilings, with plaster falling off. The worst room was the Respondents' daughter's bedroom. This was reported in February 2018.

**15.** The Tribunal referred Mr Martin to an email submission from him dated 25 February 2021. In this email he states "I do not dispute the rent arrears which I calculated at approximately £1200. I had told Mr Lumb to keep the deposit towards this and told him I wouldn't be prepared to pay him any more money. Due to the fact he hadn't done essential maintenance I don't think I'm liable to pay him another penny. Due to COVID and being furloughed I was struggling financially and could not afford to pay the rent". In response to questions regarding this submission, Mr Martin advised that he had failed to pay the remainder of the rent partly because of financial problems and partly because of the repairs. He also confirmed that he did not inform Mr Lumb in advance that he was withholding because of outstanding repairs.

### **The Applicants evidence**

**16.** Mr Lumb advised the Tribunal that the lease for the period 2017 to 2020 was not signed. However, he had issued this lease either with the rent increase letter or around the same time. In any event, the Respondents agreed to pay the increased figure and did pay it every month from October 2017 until December 2019 when there were late payments, followed by missed payments.

**17.** Mr Lumb referred to his written response to the Respondents submissions. The Tribunal noted the following the following evidence: -

- (i) The leak was reported by messenger and was fixed within a few days of Mr Lumb's return from holiday. The alarm is a heat detector, not a smoke detector, because it is in the kitchen. It was not damaged. Mr Lumb tested it and it was in working order. He intended to re-paint the ceiling but forgot. Mr Lumb advised the Tribunal that he was not told that an electrician said the alarm needed to be replaced. In any event, it was in working order.
- (ii) Mr Lumb has no record of being notified about the damaged linoleum in April 2018. The Respondents had the linoleum fitted. It was quite thin and there should have been plywood underlay to deal with any uneven flooring. The linoleum was damaged where heavy items had been dragged across it. Mr Lumb advised the Tribunal that the company who fitted the linoleum are reputable and he has used them himself. However, if a floor is uneven, underlay is required. The floor is uneven because there is an access hatch. The Respondents took it upon themselves to put the linoleum down. He believes that damage was caused by items being dragged across the floor

although this may be speculation on his part.

- (iii) Window repairs were carried out – two sets of damaged bedroom window hinges were replaced, cracks around two windows were filled, and a draft excluder fitted to the kitchen door. The property is well insulated with cavity wall insulation and insulation in the loft and has double glazing. Mr Lumb advised the Tribunal that the windows were installed in 2005 and that they are in working order. He does not know what the Respondents mean when they say that they could see daylight. The property is very snug. He was not aware of any issues with the windows.
- (iv) Mr Lumb was notified about the electricity tripping in November 2019, when he made a call to Mr Martin about the rent. Since the tenancy ended, he has spent time at the property and the electricity has not tripped. He asked Mr Martin to keep a log of the problem to establish when it was happening and what was being used at the time. Mr Lumb referred the Tribunal to a copy of an email to an electrician on 27 November 2019 asking for the problem to be checked. He notified Mr Martin. Mr Martin did not provide him with the log which had been requested and the electrician said he tried to get in touch with Mr Martin on several occasions but was unsuccessful. In response to questions from the Tribunal, Mr Lumb confirmed that the only electrical appliances provided by him at the property were the cooker and a fridge in the garage which they did not use. He said that there had not been an inspection for the purposes of an EICR during the tenancy. He thought this was only required when a new tenancy started.
- (v) Mr Lumb has no record of being notified about cracks in the ceiling. The ceilings at the property are in good repair, aside from the usual cracks at the plasterboard joints. There may have been problems caused by the amount of stuff stored by the Respondents in the loft. Since the tenancy ended, he has decorated but has not required to replaster the ceilings.
- (vi) The Applicants did not lodge written submissions about the cooker. In response to questions from the Tribunal, Mr Lumb said that there were no complaints or reports about the cooker. It appears that the seal has been removed during the tenancy. The hinges on the door needed adjusted. It is an old cooker, installed in 2000. However, it is in working order. He does not recall any conversation about the cooker or any suggestion by him that he told the Respondents to buy a new one.

### **The re-instatement costs.**

### **The Applicant's evidence**

18. The Applicants submitted photographs with the application and estimates for the repair work. Their application for a payment order was based on these estimates. However, as it has been difficult to arrange for contractors during the

lockdown, Mr Lumb advised the Tribunal that they have now carried out work themselves and submitted details of the cost of the materials, the number of hours spent and a calculation of how much this time is worth, by reference to a notional hourly rate. However, for each item he confirmed that he was content to restrict his claim to the sums specified in the application, where this was less than the sums detailed in his submissions. The Tribunal noted the following evidence; –

- (i) **Plumbing and Tiling.** Mr Lumb advised that the bath had been damaged during the tenancy when something fell on it. It required to be replaced. The Respondents had painted the bathroom tiles, which they should not have done, and these also required to be replaced. In addition, there was a small amount of tiling required in the kitchen above the cooker where the tiles had become loose as a result of plastic stickers being attached to them. The Applicants spent a total of 34 hours on the work. Mr Lumb confirmed that the bathroom was the original one installed when the house was built in 1986. He would not have replaced the bathroom before marketing it for sale if the bath had not been damaged. He replaced the toilet and sink as well but did not seek to pass these costs on to the Respondents. The tiles had to be replaced, for the reasons stated. He would not have replaced these had it not been for the damage caused.
- (ii) **Kitchen flooring.** Mr Lumb said that the original flooring in the kitchen had been flotex, which is designed to last a long time. The Respondents chose to replace it with inexpensive linoleum, without permission. The original flooring was undamaged at the start of the tenancy. The replacement linoleum was torn in several places and had to be replaced before the house can be marketed. He would not have replaced the flooring, had it not been damaged.
- (iii) **Electrical work.** The application includes a sum for electrical work. This work has not yet been carried out but a replacement heating controller has been purchased, as the panel on the existing one has been snapped off. He considers this to be damage rather than wear and tear and seeks a payment order for the cost of the replacement.
- (iv) **Joinery work.** Mr Lumb advised that the claim for joinery work mostly relates to the front door of the property. A repair was also required to the loft hatch which was a fairly minor matter. The door repairs included the removal of a cat flap which had been fitted without permission. A panel had been cut out of the door and cut in two. The door required to be repaired and the trim round the door replaced. In addition, the locks have been changed because the Respondents did return all the keys for the property.
- (v) **Painting/decorating.** Mr Lumb said that every room in the property had to be painted. The Respondents had painted and decorated during their tenancy. They had put up some wallpaper and changed the colour scheme, which he didn't like. He re-instated the walls to their previous neutral colours, for sale. He referred the Tribunal to photographs of some internal doors at the property which had paint stains on them. This had occurred when the

Respondents were painting. Mr Lumb said that he had painted the ceilings as well but did not seek to pass this cost on to the Respondents, accepting that it was wear and tear. However, the Respondents ought to have re-instated the walls at the end of the tenancy as they had made the changes without his consent. In response to questions from the Tribunal, Mr Lumb said that this work was not just freshening the property up for sale. Had the walls been in their original condition and colour, he would probably not have painted them but would have marketed the property as it was. He conceded that he might have freshened them up if they had been very grubby.

- (vi) Oven cleaning. Mr Lumb said that although this is not included in his written submission, the oven has been cleaned by the Applicants. This took seven hours.

### **The Respondents evidence**

- 19.** Plumbing and Tiling. Mr Martin said that the bath had been damaged when something fell into it from a shelf. This is not in dispute, although they had been promised a new bathroom in 2017, which was never provided. The kitchen tiles had become loose over the years. This was not caused by the tile stickers they had attached. The damage was just wear and tear, due to the length of time the tiles had been on the wall. He confirmed that they had painted the bathroom tiles as these were in very dated colours and they wanted to brighten the place up.
- 20.** Kitchen floor. As advised earlier in the hearing, the kitchen flooring had been fitted by the Respondents. They did this because the property was very dated and the kitchen flooring very grubby. They wanted to freshen up the kitchen. Mr Martin confirmed that the flooring is damaged, although said that this was due to the condition of the floor underneath the linoleum. Mr Martin also said that Mr Lumb gave them permission to decorate and replace the kitchen flooring.
- 21.** Heating control. Mr Martin advised the Tribunal that it was a heating engineer, sent by Mr Lumb, who broke the controller. The panel snapped off when he pulled it down. The controller was still functioning. He believes that this issue was just wear and tear.
- 22.** Joinery work. Mr Martin confirmed that they did install a cat flap in the door. This involved the removal of one of the panels in the door. They had permission. They did not re-instate the door at the end of the tenancy. The seal referred to by Mr Lumb had just fallen off. He conceded that not all keys were returned at the end of the tenancy but thinks that it was only one which was missing – a key for each door was definitely handed over. He does not know anything about damage to the loft hatch.
- 23.** Painting. Mr Martin said that the Respondents had the keys for the property for a couple of weeks before they moved in in 2012. Mr Lumb gave them



permission to decorate. He did not say they would have to re-instate the property to neutral colours. They also carried out some decorating during the tenancy. He conceded that internal doors had been left with paint marks and that they could have dealt with that.

24. Mr Martin advised the Tribunal that the Respondents did not clean the oven before they moved out as they assumed it would be replaced.

### **Final submissions**

25. Mr Lumb advised the Tribunal that he retained the tenancy deposit of £500 paid by the Respondents and that this can be applied to the rent arrears. This leaves a balance outstanding of £1250. He confirmed that a payment order is also sought for re-instatement costs of £1715 for painting, £528 for flooring, £49.98 for the heating controller, £186.99 for joinery work, £414.68 for plumbing and tiling and 7 hours at £15 per hour for cleaning the oven.

### **Findings in Fact**

26. The Applicants are the owners and former landlords of the property.

27. The Respondents were the tenants of the property in terms of a short assured tenancy agreement. The tenancy ended on 5 September 2020.

28. The Respondents were due to pay rent at the rate of £525 per month to the Applicants.

29. The end of the tenancy the Respondents owed the sum of £1775 in unpaid rent.

30. The Respondents caused damage to the property during the tenancy. The Applicants have incurred costs in re-instating the property to its pre-tenancy condition.

### **Reasons for decision**

#### **Rent arrears**

31. The Tribunal noted that the Respondents do not dispute that some rent was unpaid at the end of the tenancy and did not challenge the rent statement submitted by the Applicants which shows a £200 shortfall for the month of May 2020, and no rent paid in June, July and August 2020. At the CMD the Respondents stated that the rent for the property had been increased to £525

in October 2017, when a new lease had replaced the previous one which covered the period 2014 to 2017. At the hearing they confirmed that they had paid the increased figure from October 2017 onwards until May 2020, when the account went into arrears. However, the Respondents now claim that they paid this increased figure in error. They thought that they had no option because this was the figure in the new lease. They did not receive a rent increase notice and did not agree to the new figure. As they have now discovered that the new lease was never signed by the Applicants (although it was signed by them) they believe that they have overpaid their rent by £15 per month from October 2017 onwards and that this overpayment should be deducted from the arrears.

32. The Tribunal is not persuaded by this argument. The Applicants were not aware of the Respondent's position until the start of the hearing, as a different position had been advanced at the CMD. When the matter was raised, the Applicants were able to submit a copy of a rent increase notice letter dated July 2017. The Respondents deny receiving this. However, they confirm that they signed the new lease which specifies the higher figure and paid this figure from 2017 until they stopped paying rent in May 2020. The Tribunal also notes that it is usual for rents to be increased by landlords from time to time during the term of a tenancy, where the tenancy runs for a number of years, and that it is possible for rent to be increased by notice, by agreement or by signature of a new tenancy agreement. The Tribunal is satisfied that the monthly rent due in terms of the tenancy was £525 per month.
33. The second part of the Respondents defence to this part of the application is their claim for an abatement of rent. In such cases, the onus is on the tenant to establish that they are entitled to an abatement. The Tribunal notes that the Respondents did not put the Applicants on notice that they were withholding rent due to a failure to carry out repairs. They provided no evidence to the Tribunal, in the form of letters, text messages or emails, to establish that they reported the repairs issues listed in their submissions. Furthermore, they provided no evidence that the defects existed (see paragraph 41). All are disputed by the Applicants. Furthermore, many of the alleged defects are said to have existed since 2017 or 2018, long before the Respondents stopped paying rent. Lastly, it is conceded by the Applicants, in their written submissions as well as in their oral evidence, that financial problems led to them being unable to pay their rent. They did not choose to stop paying – they were unable to do so. Their concerns about repairs appear to have developed only after the Applicants lodged an application with the Tribunal for recovery of the rent arrears.
34. The Tribunal is satisfied that the Respondents have failed to establish that they are entitled to an abatement of rent as a result of a failure by the Applicants to fulfil their contractual obligations. The Tribunal concludes that the Applicants are entitled to a payment order for the sum of £1275 for unpaid rent, being the balance due on 5 September 2020 less the tenancy deposit of £500.

## Re-instatement costs

35. Plumbing and tiling. The Respondents concede that the bath was damaged during their tenancy, when something fell on it, and that they painted the bathroom tiles. The Tribunal is therefore satisfied that the Applicants are entitled to a payment order for these items. Although the Respondents dispute the damage to the kitchen tiles, they accept that they did put stickers on them. In any event, this is a small part of the sum claimed under this heading. The Applicants have provided vouching for materials of £278.46. This leaves a balance of £136.22 for labour, a sum which is significantly less than the calculation provided by the Applicants based on the number of hours spent by them doing the work. The Tribunal is satisfied that the sum of £136.22 is a reasonable sum for the labour involved in the replacement of a bath and tiling work and that a payment order should be granted for the sum of £414.68.
36. The kitchen floor. The Tribunal had some difficulty with this item. Had the original flooring been in place, the Tribunal may have taken the view that any damage could be regarded as wear and tear, as it would have been in place for a considerable period of time. However, the Tribunal cannot make a finding based on what might have been. It is not in dispute that the flooring fitted by the Respondents was in a damaged condition at the end of the tenancy. As this flooring had also been in place for several years, it is likely that some of the damage is due to wear and tear. However, as there is a possibility that the Applicants would not have been put to this expense if the Respondents had not replaced the original flooring, the Tribunal is satisfied that the Applicants are entitled to a payment order for the flooring itself, but not the cost of fitting it. The Applicants have provided vouching for materials £270.52. The Tribunal is satisfied that the Applicants are entitled to a payment order for £270.52.
37. The parties are agreed that the panel has come off the heating controller. The Applicants are unable to provide any explanation for this. The Respondents state that it simply snapped off when a heating engineer was at the property. The Tribunal notes that the property is 35 years old and that it is likely that a heating controller, in a house of this age, would require to be replaced at some point. Had the Respondents notified the Applicants during the tenancy that the controller had been damaged, through ordinary day to day use, it would have been the Applicants' responsibility to replace it. That position does not change when the item is being replaced after the tenancy has ended. The Tribunal is satisfied that this defect is due to wear and tear and that the Applicants are not entitled to a payment order for same.
38. Joinery work. Whether or not the Respondents had permission for the cat flap, the Applicants were entitled to expect the door to be re-instated at the end of the tenancy. Furthermore, it is entirely reasonable for the Applicants to expect all keys to be returned at the end of the tenancy or to expect the Respondents to pay for a lock change if they failed to do this. The Tribunal is therefore satisfied that the Applicants are entitled to a payment order for re-instating the door and changing the locks. The Applicants have provided vouching for materials of £72.18 and seek an additional sum of £114.81, for labour. Again,

the total cost is less than their estimate based on the number of hours spent on the work. The Tribunal is satisfied that an order for payment for £186.99 should be granted.

39. Painting and decorating. The Respondents concede that internal doors at the property had paint marks on them which relate to decorating carried out by them during the tenancy. The Tribunal is therefore satisfied that the Applicants are entitled to a payment order for the cost of re-instating the doors. However, the Applicants seek a substantial sum for painting the whole property. Only £181.71 of this relates to materials. The Tribunal notes that the Respondents moved into the property in 2012. Since then, the Applicants have not carried out any painting or decorating at the property. Furthermore, although they referred to some small holes in walls where pictures had been hung, the Applicants did not provide any evidence that the walls were damaged or unsightly. In any event, it seems likely that the Applicants would have painted some of the rooms at the property, before selling or re-letting it. Had the Respondents not decorated, the walls would have been untouched for over eight years. The Tribunal is not satisfied that the painting of the whole property was required to remedy defects or damage. The tenancy agreement does not state that walls had to be returned to neutral colours. Generally, after a tenancy has ended, landlords will decorate, whether they intend to sell or re-let a property. The Tribunal determines that the Applicants should be awarded 50% of the sum spent on materials and the sum of £200 for labour, for the work carried out in relation to the internal doors.

40. The oven. It is conceded that this was not cleaned at the end of the tenancy. The applicants claim to have spent 7 hours cleaning it. This seems excessive. The Tribunal is satisfied that a payment order should be granted for £25 for cleaning the oven.

## **Note**

41. During the hearing, the Respondents indicated that they had submitted photographs which related to repair issues, specifically the ceiling in the kitchen. The Tribunal was unable to locate the photographs referred to from those submitted by the Respondents in advance of the hearing. After the hearing it transpired that the Respondents had emailed photographs to the Tribunal at approximately 1.15pm on the day of the hearing. They did not advise the Tribunal that these had been submitted and, as they did not include the Tribunal reference number in the emails, these were not sent to the Tribunal until 23 April 2021. As a result, the photographs were not considered when the Tribunal made its decision. However, the Tribunal notes that the photographs would not have changed the outcome of the hearing. They show the water damaged ceiling in the kitchen and the damaged kitchen floor. These were not in dispute. They also show some cracks in the ceiling. However, although the Tribunal had determined that no evidence of this defect had been provided, the Tribunal's decision was largely based on the finding that there was no evidence of it being reported, or that the decision to withhold rent had been connected to the alleged defect. Furthermore, it is not clear from the photographs that the

cracks were anything more than a cosmetic defect.

## **Decision**

42. The Tribunal therefore determines that an order for payment should be granted in favour of the Applicant against the Respondent in the sum of £2463.04.

## **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.**

**Josephine Bonnar**

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**Josephine Bonnar, Legal Member**

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**Date: 25 April 2021**