



**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/18/3052**

**Re: 372 Colinton Mains Road, Edinburgh EH13 9BS (“the Property”)**

**Parties:**

**Mr Pradip Sutare, 372 Colinton Mains Road, Edinburgh EH13 9BS  
 (“Mr Sutare”)**

**Mr Ramesh Golkonda, 19 Craigmount Brae, Edinburgh EH12 8XD  
 (“Mr Golkonda”)**

**Tribunal Members:**

**Graham Harding (Legal Member)  
Helen Barclay (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be refused.**

**Background**

1. By application dated 12 November 2018 the Applicant, Mr Sutare applied to the Tribunal for an order for payment in respect of alleged breaches of a tenancy agreement together with damages for harassment and loss of income. Mr Sutare submitted lengthy written submissions in support of his application detailing the reasons for the application.
2. The application was conjoined with Mr Sutare’s other application in respect of a claim under the Tenancy Deposit Schemes (Scotland) Regulations 2011 case Reference FTS/HPC/PR/19/0072.
3. By Notice of Acceptance dated 11 January 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management discussion was assigned.

4. Following intimation of the Case Management Discussion on Mr Sutare and on Mr Golkonda's representatives T C Young, Solicitors, Glasgow by post on 31 January 2019 and by Sheriff Officers on Mr Golkonda on 1 February 2019 Mr Sutare made written representations to the Tribunal seeking to have the proceedings recorded and also to have a Hindi interpreter to interpret an audio recording. The application for the proceedings to be recorded was refused.
5. By letter dated 22 February 2019 and received by the Tribunal on 28 February 2019 Mr Golkonda's representatives submitted written representations in respect of the conjoined cases FTS/HPC/CV/18/3052 and FTS/HPC/PR/19/0072.
6. At the CMD on 28 February 2019 a hearing was fixed to take place on 25 April 2019.
7. By email dated 1 March 2019 Mr Sutare requested that the hearing be brought forward as he was flying to India on 24 March for 3-4 months. A provisional date of 21 March was given but Mr Golkonda was unavailable on this date. Following further correspondence between the Tribunal administration and Mr Sutare the hearing date of 25 April was retained.
8. A hearing was held at Edinburgh on 25 April 2019. Mr Sutare's application for the proceedings to be recorded was refused. As Mr Sutare's applications for permission to appeal to the Upper Tribunal in respect of Mr Golkonda's applications against him under case References FTS/HPC/EV/18/1995 and FTS/HPC/CV/18/1997 had been successful the Tribunal adjourned the hearing to await the outcome of the appeals to the Upper Tribunal with a view to all four cases being conjoined in the event of Mr Sutare's appeals being successful.
9. A hearing was assigned to take place initially on 2 and 3 September 2019 and the Tribunal issued Directions to the parties dated 1 August 2019 requiring the parties to lodge indexed and paginated Inventories of Productions no later than 7 days prior to the Hearing.
10. By letter dated 23 August 2019 received by the Tribunal on 27 August 2019 Mr Golkonda's representatives submitted an Inventory of Productions. Mr Sutare's Inventory was received on 26 August 2019.

The Hearing 2 September 2019

11. The first day of the conjoined hearing was held at Riverside House, Edinburgh on 2 September 2019. Mr Golkonda attended personally and was represented by Mr Neil Mathieson of T C Young, Solicitors, Glasgow. For the sake of convenience in identifying the parties they have been referred to by their names throughout as they are both Applicant and Respondent in different applications.
12. At the commencement of the hearing the Mr Sutare objected to Mr Golkonda's Inventory being received as he had not received it until Wednesday 28 August.

For Mr Golkonda Mr Mathieson advised the Tribunal that the Inventory had been sent by First Class post on Friday 23 August 2019. He further submitted that most of the documents in the Inventory had been submitted previously. The Tribunal considered the Mr Sutare's objection but allowed them to be received under reservation should their late receipt disclose any prejudice to Mr Sutare.

13. By way of a preliminary matter in respect of the conjoined case references FTS/HPC/EV/18/1995, FTS/HPC/CV/18/1997 and FTS/HPC/CV18/3052 the Tribunal sought to clarify with Mr Sutare that it did not appear that the Local Authority had served a Rent Penalty Notice on Mr Golkonda. That being the case whilst the Local Authority could take action against a Landlord for failing to be a registered landlord or failing to have an HMO licence and the Crown could raise criminal proceedings the Tribunal did not have jurisdiction in these matters.
14. The Tribunal then heard from Mr Sutare on the issue of a recording being allowed as Evidence. The recording was in Hindi. An interpreter had been provided by the Tribunal at the request of Mr Sutare. Mr Mathieson objected to the recording being allowed in evidence. He referred the Tribunal to the decision of the previous legal member at the CMD on 21 November 2018. The legal member had said the recording was not admissible as the other party could not be identified. There had been no direction from the Tribunal that the recording could be heard. For his part Mr Sutare submitted that the recording was a conversation between himself and Mr Pawan Talapadi who would have been a witness and had been on Mr Golkonda's witness list for the original hearing. Having heard from both sides and with some reservation the Tribunal decided to allow Mr Sutare to play the recording and have it translated by the interpreter.
15. Mr Golkonda gave evidence. He told the Tribunal he was an IT Technical Manager for a large banking group. He was 49 years old. He was resident in the UK and had spent 23 years in the industry. He had been with Lloyds Bank for 19 years. He had a bachelor's degree from India and an MBA from Edinburgh University. He explained that he and his wife had purchased the property in joint names in order to fund their daughter's education. The property had been purchased on 26 February 2017. The property consisted of five rooms, one lounge, one kitchen, three rooms on the first floor plus a bathroom and two rooms on the second floor plus a bathroom.
16. Mr Golkonda explained he knew Mr Sutare as he had placed an advertisement on Facebook that had been answered by Mr Sutare. Mr Golkonda said he had explained to Mr Sutare that he did short term letting. Mr Sutare wanted to see photographs and he had referred him to the ESPC website. He said he had told Mr Sutare that the room that was available was a small room. He said that Mr Sutare had contacted him about the property on 26 June 2017.
17. Mr Golkonda said that Mr Sutare was the only tenant now living in the property. Another tenant Mr Pawan Talapadi had left on 9 February 2018. He had been the only other tenant remaining at that time. There had been other tenants who

had only stayed short term. He referred to Mr Suresh and Mr Krishna. He also referred to a Mr Prabhakar who had only stayed a few days. He said Mr Krishna had wanted to come back after he had left. He spoke of people wanting to rent jointly but pay individually. He said that when he first started renting out the property a small group came. He rented out the rooms to each person and they shared the common area and the kitchen.

18. Mr Golkonda said that Mr Sutare had seen the room on 29 June 2017 and had decided to take it. Mr Golkonda said he was reluctant to agree to let the room to Mr Sutare as when he asked to see his UK residency card, he would not let him photograph it. Mr Golkonda said he scribbled down his name but had got it messed up. Mr Golkonda said he had agreed a rent of £100.00 for the first week and had told Mr Sutare that he may decide to extend the period but at that point he had not decided to extend it any further. Mr Golkonda said that Mr Sutare transferred £100.00 into his bank account at that point and moved in.
19. Mr Golkonda went on to say that there was subsequently a change in the agreement as Mr Sutare wanted to extend his stay for one month and it was agreed that the rent for the small room would be £320.00 per calendar month. Mr Golkonda said that in addition there would be a cleaning charge to be paid directly to the cleaner. Mr Golkonda said this was agreed on 9 July 2017.
20. Mr Golkonda went on to say that Mr Sutare did not remain in the same room. He heard on 10 July that Krishna was leaving for one month and he wanted Krishna's larger room. Mr Golkonda said the rent for the bigger room was £360.00 for the month. He said that Mr Sutare paid a further £40.00 and on 13 July Krishna gave him the keys to the larger room and he moved in on 14 July. Mr Golkonda said the payment terms had been agreed verbally and Mr Sutare was paying the same as Krishna had paid.
21. Mr Mathieson asked Mr Golkonda to look at Mr Golkonda's Production number 10. Mr Golkonda confirmed these were rent receipts dated 24 September 2017. Mr Golkonda said he had been chasing rent via text messages so gave Mr Sutare the rent receipts. He explained that if rent was paid by bank transfer there was no need to give receipts but Mr Sutare had wanted receipts so he had provided them. The first receipt was for £100.00 and was for one week only from 29 June until 6 July. The second receipt was for £360.00 for the period to 13 August.
22. Mr Mathieson then referred Mr Golkonda to Mr Sutare's inventory numbers 49 and 50. Mr Golkonda confirmed this showed a transfer from Mr Sutare's Bank account to Mr Golkonda's account for £100.00 on 29 June 2017 and a further two transfers on 13 July 2017 for £320.00 and £40.00. Mr Mathieson asked Mr Golkonda if Mr Sutare had made any other payments to which Mr Golkonda said "no." Mr Mathieson asked Mr Golkonda if Mr Sutare had made payments by any other method and again the answer was "no". Mr Mathieson asked Mr Golkonda if Mr Sutare had made any cash payments and again Mr Golkonda said "no". Mr Mathieson asked Mr Golkonda if Mr Sutare had paid a deposit

and once again Mr Golkonda said “no.” Mr Golkonda said that Mr Sutare had said he would transfer money for a deposit but this had never happened.

23. Mr Mathieson referred Mr Golkonda to Mr Golkonda’s Production 15. Mr Golkonda confirmed this showed the rent due by Mr Sutare as at March 2019 as £7003.00. Mr Golkonda went on to say Mr Sutare had paid nothing since then and the current balance due by Mr Sutare was over £9000.00.
24. In response to a question from Mr Mathieson as to whether other tenants in the property ever paid in cash Mr Golkonda said that he had taken cash payments. And gave as an example software engineers who might have arrived from India. He explained they would not have had a bank account but would have cash from their company. He said it could take 15 to 20 days to open a bank account He also said some people might prefer to pay in cash. He said his tenants were professionals most paid by bank transfer. He said Mr Talapadi paid by bank transfer. Mr Suresh paid once by cash. Mr Krishna paid by cash to start with. In response to a question from Mr Mathieson as to whether Mr Sutare was aware of how payments were made by other tenants Mr Golkonda said that he was not sure but that he had done nothing wrong.
25. Mr Mathieson referred Mr Golkonda to Applicant’s Production number 22. Mr Golkonda confirmed this was a Halifax Bank statement showing rental transfers from Mr Talapadi. Mr Golkonda said Mr Talapadi moved in March 2017 or the beginning of April and left on 9 February 2018. He said rent payments were by bank transfer. Mr Golkonda went on to say that Mr Talapadi had complained a lot about Mr Sutare. Mr Golkonda said that as a pay as you go meter was in the property the cost of the electricity had been deducted and the rent had thereby been reduced. In October 2017 the property had been cleaned and the additional cost was distributed amongst the tenants. Therefore, the rent in October had been £370.00 plus £15.00 extra. The same would have applied to Mr Sutare but he never paid.
26. Mr Mathieson put to Mr Golkonda Mr Sutare’s position that he had paid his rent in cash to Mr Golkonda. Mr Golkonda said Mr Sutare did not pay cash. He said Mr Sutare caused terror, he intimidated and he was a fraudster.
27. When asked about the deposit Mr Golkonda said that when Mr Sutare moved into the bigger room, he was supposed to pay a deposit of £100.00 but this never happened.
28. Mr Mathieson referred Mr Golkonda to Mr Golkonda’s Production number 1. Mr Golkonda said that these were text messages between himself and Mr Sutare. He said he had tried to include every message. He was referred to Production 1/6 and the text of 20/07 giving Mr Sutare 1 week notice to vacate the property and stating that the deposit and any remaining rent would be refunded on the day of vacating. Mr Golkonda said that the message had been sent because of anti-social behaviour on the part of Mr Sutare. There had been a dispute between Mr Sutare and another tenant Mr Prabhakar. Mr Sutare had called the police. Mr Golkonda said he had not been present and was not a witness but

had decided to serve notice on both tenants in order to maintain peace in the property. He thought he could do this as it was a short let. With regards to the deposit Mr Golkonda said he had expected to receive £100.00 as a deposit and would have refunded it. When asked if there had been a cash transaction he said "No."

29. Mr Mathieson referred Mr Golkonda to Production 1/7 and the texts from the other person that said he was vacating on 14 August. Mr Golkonda confirmed this was from Mr Sutare. Mr Mathieson then referred Mr Golkonda to the text sent at 11.23. Mr Golkonda said that this had been sent in order to clarify the payments that had been made and that would be due.
30. Mr Mathieson then referred Mr Golkonda to Production 1/24 and the text at 11.30 on 25 September 2017. Mr Golkonda read the text and said that Mr Sutare had not replied.
31. Mr Mathieson referred Mr Golkonda to Production 1/25 and the reference to a message being sent to both mobiles. Mr Golkonda said that he was aware that Mr Sutare had two mobiles one for "WhatsApp" and one for other calls. He said that he had wanted to help but that Mr Sutare was a fraudster. He had threatened him and was making a false case against him. He said he did not attend at the property and was being very cautious as he worked in the financial sector and had to follow rules very strictly.
32. Mr Mathieson then referred Mr Golkonda to text messages at Production 1/32 and 1/34, and Mr Golkonda said that Mr Sutare had not replied to these texts.
33. Mr Mathieson referred Mr Golkonda to Productions 1/39 and 1/40. Mr Golkonda confirmed that Mr Sutare had replied but had made no mention of the arrears.
34. Mr Mathieson referred Mr Golkonda to Production 1/41 and asked Mr Golkonda if he had ever been involved in money laundering. Mr Golkonda said he had not and had never seen any evidence from Mr Sutare that he had been.
35. Mr Mathieson referred Mr Golkonda to Production 1/42 and asked Mr Golkonda if Mr Sutare said he had paid the rent or that Mr Golkonda had been round to collect cash. Mr Golkonda confirmed that Mr Sutare had not.
36. Mr Mathieson then referred Mr Golkonda to Production 1/58 and asked if there had been any response to that message. Mr Golkonda said there had not.
37. Mr Mathieson referred Mr Golkonda to Production 1/63. Mr Golkonda explained that there had been various allegations made about operating without an HMO licence. He said he had been responding through the HMO licensing section with Ken Haycox. He said he had applied for a licence.
38. Mr Mathieson referred Mr Golkonda to Production 2/5 an email from Ken Haycox to Brian Morgan and asked who Brian Morgan was. Mr Golkonda said Mr Morgan was with HMO Scotland, a company that gets HMO licences. It dealt

with inspections and compliance with HMO requirements. Once complied with they apply for the licence. He said he had instructed Brian Morgan to deal with the HMO licence application. He said there had been four appointments made but that Mr Sutare had denied access with one occasion being cancelled due to bad weather. On one occasion Mr Sutare had provided an appointment but then denied access.

39. Mr Golkonda said that Mr Sutare had been the sole tenant of the property since 9 February 2018. Mr Golkonda said he had not attended at the property since September or October 2017. He said that Mr Sutare never provided access to the property but always debated and questioned any attempts to gain access. For Gas Safety inspection Mr Golkonda said he had to make an access request through the First-tier Tribunal.
40. Mr Mathieson referred Mr Golkonda to Production 18. Mr Golkonda said it had been necessary for the letting agency to make an application to gain access for certification and reports and had to go to the First-tier Tribunal. Mr Golkonda confirmed that he had handed management of the property to The Flat Company and Matthew Wilcken was the owner of the letting agency. Mr Golkonda said Mr Wilcken had tried to arrange access with Mr Sutare but he had not responded.
41. Mr Mathieson referred Mr Golkonda to there being a criminal investigation into him. Mr Golkonda confirmed the police had come once and he had been interviewed and had given no comment answers. He said that it had been said he had called Mr Sutare and used bad words. He said he had not done that it had all been fabricated by Mr Sutare.
42. Mr Mathieson referred Mr Golkonda to production 12, a letter from John Pryde, Solicitors dated 28 June 2018. Mr Golkonda confirmed that he was not aware of there being anything further arising from the police interview and there were no other criminal investigations against him.
43. Mr Golkonda confirmed he was a registered landlord and had been since 2010. He said he currently had two rental properties 372 Colinton Mains Road and one other at Craigievar Square.
44. Mr Mathieson referred Mr Golkonda to Production 21. Mr Golkonda confirmed this was an email from Landlord Registration dated 26 February 2013 confirming his registration required to be renewed on 24 May 2013. Mr Golkonda confirmed the contents of the email had not been altered. Mr Golkonda went on to confirm that Production 21/2 was a further email from Landlord Registration advising of renewal required on 5 June 2016. Mr Golkonda confirmed the contents had not been altered. Mr Golkonda referred to Production 21/4 which was confirmation of the renewal of his landlord registration the fee paid being £69.30 and the date and time being 17/06/2016 at 15.25. Mr Golkonda said that it was not an offence to let a property whilst an application for registration was pending.

45. Mr Mathieson referred Mr Golkonda to Production 21/9. Mr Golkonda confirmed this was an email from Rosalind Laidlaw at Landlord Registration and his reply. He explained that at the time he did have two other properties and he had tried to update his registration to include 372 Colinton Mains Road. He said he had amended his registration details and responded regarding the HMO licence.
46. Mr Mathieson then referred Mr Golkonda to Production 21/6 and Mr Golkonda confirmed that this was confirmation of approval of his landlord registration for the three properties he had at that time. He confirmed that he renewed his landlord registration every three years. And that there had never been a time when he had not renewed his registration. He said there had been a problem with including 372 Colinton Mains road as the Council system had not updated the property. Mr Golkonda confirmed he had never been told he was not a fit and proper person to be a landlord. He confirmed he had never been served with an order not to collect rent from his properties.
47. Mr Mathieson referred Mr Golkonda to Production 1/36 and the bottom text and 1/37, 1/38, 1/39 and 1/40. Mr Golkonda said he had not gone to the house nor had he cut off the hot water and heating. Mr Golkonda said that he had gone to bed by the time the first text had arrived but that he had arranged for an engineer to carry out repairs within a few hours of being made aware of the problem. He did not think it had taken an unreasonable amount of time. He said British Gas ask about the problem and they decide once they have the details.
48. Mr Mathieson referred Mr Golkonda to Production 16. Mr Golkonda said this was the call history with British Gas. It had been compiled by British Gas. Mr Golkonda explained that on 25 February the gas engineer had called at the property at 13.42 but Mr Sutare was not there.
49. Mr Mathieson referred Mr Golkonda to the entries on Production 16/1. Mr Golkonda said that Mr Sutare had failed to answer call there had been appointment made without authorisation. Mr Golkonda explained that the Flat Company had contacted Mr Sutare in advance of the Gas Safety Certificate expiring. He had been unaware of Mr Sutare arranging another inspection and certificate in July.
50. Mr Golkonda said that he was not letting out other rooms in the property as Mr Sutare was not providing access and was seriously threatening. He said that at various times when the Letting Agency had tried to gain access Mr Sutare had sent a text message saying that if they entered, he would file a harassment case. He said that was the terror he created.
51. In response to a question from Mr Mathieson as to how he had been affected Mr Golkonda said he was in a deep financial crisis. It was very difficult paying his mortgage, council tax and bills. He had paid out a lot of money for the HMO licence and legal expenses. He had borrowed £25000.00. He had to move his daughter from private school and she had lost friends.



## Cross examination of Mr Golkonda

52. In response to questions from Mr Sutare Mr Golkonda said he had two buy to let properties including the one that was the subject of these proceedings plus one personal property. The other rented property was let to one family and had been rented out for five or six years. Mr Golkonda confirmed he had renewed his landlord registration in 2016 and had updated the council website within a month of purchasing the property at Colinton Mains Road. He said he was not aware of there being an issue until he received the email from the Council.
53. Mr Sutare queried with Mr Golkonda why he had called him a dodgy person and had engaged in anti-social behaviour. Mr Golkonda said that Mr Sutare was more than that as would become clear. On being asked if he had contacted the police Mr Golkonda confirmed he had and had been given a case reference number and had been advised to follow court procedure having been told it was a civil matter. On being asked if he had been arrested Mr Golkonda said he had been taken to the police station. He denied threatening Mr Sutare or asking his friends to threaten him. He confirmed he had made a no comment interview to the police.
54. On being further questioned about his landlord registration Mr Golkonda said that he had access to the Council website and could amend it by adding another property. On 30 October 2017 he updated his registration by updating the list. Subsequently another property was sold and deleted from the list. Mr Golkonda said that on the first occasion about a month after purchasing the property there had been a system error when he had tried to register the new property and the list had not updated. Mr Golkonda further explained how he had then paid additional funds in October 2017 as the previous registration was not showing but when it was sorted out by the Council, he had £189.00 transferred back to him. Mr Golkonda said he had not told tenants he was not registered as a landlord with the Council because he was registered. Had anyone asked that question he would have proved that he was registered.
55. In response to whether Mr Golkonda told tenants that what they paid him was all legal Mr Sutare said that the application for the HMO licence was in progress in 2017 and that HMO Scotland had provided details on all the work that needed to be done. Mr Golkonda said it was a lengthy procedure to obtain a licence and the tenants were aware of that. Mr Sutare said he had been unaware but this was disputed by Mr Golkonda who said the application had been submitted on 19 September 2017.
56. Mr Golkonda was referred to Mr Sutare's inventory page 47 Mr Golkonda stated that he had discussed a small room being available on the phone. There had been no agreement until Mr Sutare had viewed the property.
57. Mr Sutare referred Mr Golkonda to Production number 15 in Mr Golkonda's inventory and queried why there was no mention of the £100.00 he had paid. Mr Golkonda said this had been for a different contract. He said the £100.00 had been payment for one week. The rent had then been £320.00 from 11 July

and increased to £360.00 from 13 July. Mr Golkonda confirmed he had not given Mr Sutare a receipt for the £100.00 as it had been paid by bank transfer and therefore, he did not think he needed to provide a receipt. Mr Golkonda denied receiving any cash from Mr Sutare on 29 June 2017. Mr Golkonda was referred again to his Inventory number 1/7 and said that it had been sent to clarify with Mr Sutare what had been paid. He again confirmed that no deposit had been paid and said that he could not remember who had paid a deposit or how much it had been. He thought perhaps one person had paid a deposit. He said he did not take a deposit from people who were only staying a few months. He said Mr Sutare had been expected to pay a deposit of £100.00. He said he had not sent a text saying he would repay this. He said he was aware of the Tenancy Deposit Scheme. When asked if Sayed Badeshi had been a tenant Mr Golkonda confirmed he had and thought it had been for a few months . He said he did not know if he had taken a deposit from him. Mr Golkonda said he did take a deposit for the other rented property he had.

58. Mr Golkonda agreed with Mr Sutare that he had not provided him with a rental agreement. He said the only agreement he had was for six months not for short lets. He said at that time his mother had been ill and he had been extremely busy. He said no-one in that property had been given a rental agreement and everyone had vacated the property. Mr Golkonda said he had not provided rent receipts as the bank transfer was proof of payment. If cash was paid, he would send a text message. In response to how many tenants paid by bank transfer Mr Golkonda said most of them but he did not have details. He said Mr Talapadi had paid one month in cash and the rest by bank transfer. In response to being asked how many bank accounts he had Mr Golkonda said he thought that was a personal question but confirmed that his tenants paid rent into two accounts. Mr Golkonda confirmed that he did provide rent receipts for people who asked for them.
59. Mr Golkonda was asked about the text messages sent and whether he had asked Pawan for Mr Sutare's number. Mr Golkonda denied that was the case. Mr Golkonda confirmed he had two numbers for Mr Sutare one was used for WhatsApp messages and the other for text messages. Mr Golkonda was asked if he could know where a text message was going. Mr Golkonda said that Mr Sutare had said he had not been getting text messages so he had contacted his mobile network who had suggested that he could activate confirmation that the message had been delivered and he had activated this service at a cost. This followed from Mr Sutare's message of 13 October 2017 (Production 1/26).
60. Mr Golkonda in response to a question from Mr Sutare regarding the issue with the boiler on 25 February 2018 said he had tried to speak to Mr Sutare on the phone. He had arranged for an engineer to repair the boiler within about two hours.
61. Mr Golkonda accepted that the property had a broadband connection when Mr Sutare moved in. He said it had been provided as a courtesy for about one and a half years but he had not wanted to extend it and it had not been part of any contract.

62. Mr Golkonda denied there had been a cleaning charge of £40.00 included in the rent. He said that information was fabricated. There was no written contract and Mr Sutare had terminated the contract long ago.
63. When asked by Mr Sutare how he had breached the contract Mr Golkonda said that he had agreed to rent for a short period and he had cheated on that. He had not paid any rent despite getting several reminders. That since February 2018 he had been trying to get into the property to rent other rooms and to get work done and had not been allowed access.
64. Mr Golkonda maintained that the notice given on 20 July of one week had been valid as the agreement between the parties had initially only been for one week and then for one month this had been confirmed by Mr Sutare and referred him to Production (1/5).
65. Although the cross examination of Mr Golkonda was not completed the Tribunal agreed to the playing of an audio recording made by Mr Sutare of a conversation between himself and someone who it was said was Mr Pawan Talapadi and had been recorded in January 2018. The conversation was in Hindi and was interpreted by Naureen Hafeez. It was heard by the Tribunal under reservation as to its relevance and authenticity.
66. – I need a receipt for the rent. He said he was going to give it last month. He said he would give it us.  
-Did he give you or not?  
-No did not give me.  
-Why don't he give it? Is it money laundering happening? Does not want to pay tax?  
-He will take the cash. He did not give us anything.  
-How could he do that? How can anyone prove that?  
-Since we came here we know that but no-one else knows that. It's not illegal but no agreement.  
- We are just friends.  
-We are witness he would give us the key.  
-Since I came here, I have been asking about this. Give us the key. We pay for this.  
-How can you prove house, room?  
-I know it. Lawyer will help you write witness statement.  
-No agreement with us.  
-End of day still illegal.  
Cannot put you out.  
-No, we are not living here illegally.

Hearing 3 September 2019

67. Prior to the continuation of Mr Golkonda's cross examination Mr Sutare asked permission to lodge copies of his text messages to be lodged late and also wished to lodge further documents relating to Mr Golkonda's bank accounts Mr Mathieson objected to these being received. The Tribunal did not allow a sheet with a note of text messages but did allow documents.
68. As witness Matthew Wilcken was restricted for his availability the Tribunal agreed to hear his evidence prior to the conclusion of Mr Golkonda's evidence there being no objection from the parties.
69. Mr Wilcken confirmed he was 39 years old. He was the managing director of The Flat Company. He had been with the company for 41/2 years. He had Property Mark qualifications as well as a degree. He said he had met Mr Golkonda in March 2018 following an email asking if he would take on management of his property. He knew that Mr Golkonda was getting an HMO licence. He said they met in May 2018 and discussed the property and the tenant without a lease who was not paying rent. He said he advised Mr Golkonda to contact TC Young for advice. He said he was given Mr Sutare's name and contact number.
70. The witness was referred to Production 13 and confirmed this was a statement written by him and read it out. With regards to Production 14, Mr Wilcken denied he had been threatening to Mr Sutare and said that this had been the only time he had to contact the police about a tenant. He said Mr Sutare did not respond to requests for access for a surveyor (Production 19). Mr Wilcken denied trying to gain access to the property without consent. He said that to his knowledge Mr Sutare had not engaged with the Flat company.
71. Mr Wilcken was referred to production 2/11 an invoice from The Flat Company. and asked why they had instructed Scott & Co. Mr Wilcken said this was to have proof that a letter had been sent. He said it was appropriate that Mr Sutare be charged for the call out by First Gas Services as the heating was working. He said that he thought Mr Golkonda had fulfilled his obligations as a landlord and had taken advice from the Scottish Landlords Association.

#### Cross examination by Mr Sutare

72. Mr Sutare asked if the tenant had to sign a contract with the agency. Mr Wilcken said no it was quite common to take on sitting tenants. He said he had never taken on a property as difficult as this one. But had taken on properties at various stages. He said it was not necessary for the tenant to have an agreement with the company. The tenant had to be informed of a change in the management. Two letters were sent out to Mr Sutare.

73. Mr Sutare suggested that Mr Wilcken's was the second agency that had been instructed and that the first agency had been banging on doors and that in July 2018 Mr Golkonda had been arrested therefore was it reasonable for him not to have contact. Mr Wilcken said he could not comment on that. He said he was not a character witness. He did not have any contact with Mr Sutare. He was aware that Mr Golkonda had been arrested but was not sure when.
74. Mr Sutare referred Mr Wilcken to Production 26 in Mr Sutare's inventory and said that he had told the witness that he had arranged the gas safety certificate. Mr Wilcken said he had asked Mr Sutare to supply the certificate but he had not done so. He did not know if Scottish Gas had sent a certificate to Mr Golkonda. In the circumstances he had advised Mr Golkonda to go to the First-tier Tribunal for access as Mr Sutare had not provided it and a certificate was necessary. If he had a certificate, he would not have instructed another.
75. Mr Wilcken confirmed that when in the property for the gas safety inspection Mr Sutare had not been threatening and had been civil.
76. Mr Wilcken said that the following day there had been a conversation with Mr Sutare where he had told Mr Sutare who had requested the engineer return that if there was nothing wrong with the boiler the callout charge would be his responsibility.
77. Mr Sutare referred the witness to Applicant's production 16 which suggested there had been a fault and interference by a 3<sup>rd</sup> party. The Tribunal indicated that the witness was not in a position to comment on this line of questioning. Mr Sutare then questioned the witness on other entries on Production 16 and whether Mr Golkonda had mentioned appointments being made and cancelled. Mr Wilcken said he had not. Mr Wilcken confirmed he had asked Mr Golkonda if he had a gas safety certificate in light of Mr Sutare saying he had one done. Mr Wilcken said that he had only been to Mr Sutare's home on one occasion. He had found the telephone conversation with Mr Sutare very stressful. It was the first time he had been threatened by a tenant. There had been no proof provided by Mr Sutare of the existence of a gas safety certificate. The Mr Sutare's language had been very abusive.
78. In response to further questioning from Mr Sutare, Mr Wilcken repeated his position with regards to the need for the gas safety certificate. He denied telling Mr Sutare he was going to enter his house. But had said they were going to instruct Sheriff Officers and had advised Mr Golkonda to go to the First-tier Tribunal. Mr Wilcken said he did not have access to information from British Gas and had no knowledge of the Gas Safety Certificate arranged by Mr Sutare until he had seen it today. He confirmed his company had accounts

with various gas engineers. He confirmed he had been happy to report Mr Sutare to the police and said he had not contacted Mr Sutare again as he had a real fear of what Mr Sutare might do to him and to his company.

79. Mr Sutare referred Mr Wilcken to Production 13/4 and told him that was why he was antagonistic to which Mr Wilcken said he felt all the texts had been antagonistic. Mr Sutare had been extremely aggressive, unnecessarily so when they were just trying to do their jobs.

80. Mr Wilcken again confirmed he would not have sent a gas engineer round to do a gas inspection if he had known there was a gas certificate but he had never seen it. He denied it had been harassment as Mr Sutare had never provided the certificate.

81. Mr Sutare queried with the witness whether it had been in his commercial interest to have Mr Golkonda apply to the First-tier Tribunal for access. Mr Wilcken said that it had not and had cost his company money. It had been necessary in order to ensure the landlord had a gas safety certificate.

Suresh Racharela

82. Mr Racharela confirmed he was 42 years old and employed at Standard Life as a Software Tester. He said he knew Mr Golkonda as he was his landlord. He said he knew Mr Sutare as they had stayed together at the same house at 372 Colinton Mains Road. He said he had moved there in March 2017 and had rented a single room. He said there had been five rooms and he had occupied an upper room. The rent was £360.00 per calendar month. He said he had always paid by online transfer. He said he was not sure how other tenants paid.

83. Mr Racharela explained he had stayed at the property from March 2017 until July 2017 when he moved as his family was coming to stay. He said he was at the property at the same time as Mr Sutare for two or three weeks.

84. When asked if he had ever seen Mr Golkonda at the property and take cash from Mr Sutare the witness said he was not aware of other dealings.

85. The witness said he thought had been asked to pay a deposit but had never paid one.

86. When asked what kind of landlord Mr Golkonda had been the witness said he had been a good one. He had provided everything, a new TV. He said he had been very co-operative and that he was still renting from him.

87. When asked about his interaction with Mr Sutare the witness said they were friendly. He had no dispute with him. He spoke of one occasion when Mr Sutare had quarrelled with another tenant and the police came. He said the guy he had quarrelled with had felt bad and had left then two or three weeks later the witness said he had left.

#### Cross Examination

88. Mr Racharela said in reply to a question from Mr Sutare that he was not exactly sure how long he stayed at the property it was 4-5 months. He again confirmed he had been asked to pay a deposit but had only paid one month's rent.

89. Mr Sutare said there were some 3000 different languages in India and suggested that as the witness and Mr Golkonda were from the same area and was still living in Mr Golkonda's house and had come as Mr Golkonda's witness, he had the same bond with Mr Golkonda whereas he was a friend to the witness only.

90. The witness again denied giving cash to Mr Golkonda but had paid rent by online transfer. He said he was not sure whether he had transferred funds to Mr Golkonda's Halifax Account. He confirmed there was no written statement in Mr Golkonda's Inventory of Productions. He confirmed he had not provided any documents.

91. The witness was asked about complaints about noise and said that he did not want to discuss disputes there had been concerns about not being told who was staying as he had not wanted to stay with strangers. The witness said he had not been aware of other issues about the TV being played loudly in the morning or about cooking or about language issues.

92. The witness confirmed that when he moved into the property there were two others staying Sudan and Pawan. He said Krishna first stayed in small room then moved to bigger room. He said everyone had come separately they were not blood relations but were all working for the same company. There were no groups of people staying. The witness said he did not have a tenancy agreement and had never asked for one. He said Mr Golkonda did ask him to take an agreement but he left so was not given one.

93. The witness confirmed he had never been given a rent receipt nor had he asked for one.

94. The witness was asked how much notice he had given to leave but objected to answering as that was personal and Mr Sutare indicated he would withdraw the question.
95. The witness was asked about Mr Krishna leaving and said that Mr Sutare had moved from the small room to the larger room.
96. The witness was asked what bank the rent was paid to and said he did not know he only knew the sort code.
97. The witness was asked how many times the cleaner came to clean the house. The witness said there was a rota for cleaning and no cleaner came.
98. The witness was asked if there was broadband at the property when he came and he confirmed there was.
99. The witness said he moved as his family was coming and he had planned for that.
100. The witness said that he had been upset at the police coming to the property he was not aware of what Mr Golkonda had said to Mr Sutare or what he had done about it. He did not notice everyone's comings and goings. In the mornings he minded his own business. He would see people in the evenings only and things were good. Mr Golkonda had come to the property to find out if everything was all right and if they needed anything. It was a new property and needed to check on it.

#### Continued Cross Examination of Mr Golkonda

101. Mr Sutare suggested Mr Golkonda had never been happy with him in the property. Mr Golkonda said he had continuously sent reminders about the rent. He said Mr Sutare had agreed to move out on 14 August. He had been terrible about access and had to go to the First-tier Tribunal. Mr Golkonda said he was happy with good tenant who gave him dignity and respect. He had not been happy because of reasons.
102. Mr Sutare was referred to Production 1/10 and confirmed that he just wanted to have a conversation and would answer Mr Sutare's query. Mr Golkonda said that his last telephone conversation with Mr Sutare had been on 19 July 2017 after that all communication was by text or WhatsApp, letter or lawyers.
103. Mr Sutare referred Mr Golkonda to Production 1/18. Mr Mathieson queried the relevance of the question as it was a matter of agreement that



there was no rental agreement. Mr Golkonda denied there had been any agreement between the parties to continue the tenancy. Mr Golkonda said he had been prepared to give Mr Sutare a tenancy agreement. It was the Scottish Standard Agreement. He would normally go through it with a tenant and if happy both sign it. He had required Mr Sutare's full name and wanted passport or driving licence. Unless he had the information he could not proceed. Mr Golkonda said he felt he had to be very careful with Mr Sutare as he lied a lot. He said as a banker and a responsible parent also. He said he did not know what kind of person Mr Sutare was but was concerned that his job could be affected.

104. Mr Golkonda said he had not known Mr Sutare's full name as he had not been allowed to take a photocopy of his ID. He had written the name on a piece of paper that got lost. He had subsequently obtained his name from the bank transfer. Mr Golkonda confirmed he had intended to prepare a rental agreement. He had not done so as Mr Sutare was only staying for one week. After he moved into the big room Mr Golkonda said he offered to provide an agreement. Mr Golkonda said he had been learning a lot of things as a new landlord. He said he had never been in a situation like this one before.

105. Mr Sutare referred Mr Golkonda to production 1/23 and the text of 23 September. Mr Golkonda said there was no second meaning it was simply a request to tenants to follow the cleaning rota. He said that he could arrange for a cleaner to attend but there would be a charge that would be shared between the tenants. He said that a cleaner came on one occasion the rest of the time the tenants cleaned the property themselves. Mr Sutare referred Mr Golkonda to a charge of £15.00 for cleaning and asked if Mr Golkonda recalled instructing a cleaner before 25 September 2017. Mr Golkonda said the cleaner came on the same day as work was done on the property.

106. With regards to text messages said not to have been received by Mr Sutare Mr Golkonda said that he had phoned the operator and it had been confirmed the messages had been delivered. He had then arranged to pay 1p extra on top of his contract for confirmation of delivery.

107. Mr Sutare asked what evidence there was that Pawan had paid the £15.00 cleaning charge. Mr Golkonda said that is what his (Mr Golkonda's) evidence was. He said he must act properly even if he was in conflict. He said he did not like having to give a rental agreement but had to honour it.

108. Mr Sutare queried why he waited from June until September to give a Tenancy Agreement. Mr Golkonda said that he had asked Mr Sutare to leave giving one week's notice. Mr Sutare had said he was leaving on 14 August but this did not happen.

109. Mr Sutare asked Mr Golkonda to confirm he had allowed access for HMO work on four or five occasions. Mr Golkonda said that there had still been problems gaining access and Mr Sutare had been obstructive. There had been three or possibly four occasions when work was done putting in sensors and other work but he could not give dates. He said that in April Brian (Morgan) came and inspected the property and prepared a schedule. It then took a few weeks to get estimates and by May the work had been costed and work continued soon after that. He said that Mr Sutare had given access to his room and had not been present. He did not dispute that Mr Sutare had been present on one occasion until 10.00am.
110. Mr Golkonda confirmed he had an account with British Gas and that he had access to the account online. He said that each property was different. He said that with a Homecare account usually anybody from the property could make appointments which were sent to a specific mobile number. Mr Golkonda confirmed Mr Sutare could not access the account online but could telephone the company. Anyone could make or change an appointment.
111. Mr Sutare queried where he met Mr Golkonda who confirmed it was at a bus stop. He asked Mr Golkonda if he had told him he required payment in cash. Mr Golkonda said that was a plain lie. Mr Golkonda said if he was renting the room the tenant checks it and then he verifies their identity and takes payment of £100.00. He said in the case of Suresh a close friend stayed in the property and had sent him pictures. He was happy with it and had made up his mind. He said that usually he would take a deposit plus one month's rent but not usually in that property as it was only short term letting. In response to whether Mr Suresh had paid cash in the first month Mr Golkonda said it was his recollection he had but he usually transfers money.
112. Mr Sutare referred Mr Golkonda to Production 16 and asked if he had cancelled the British Gas appointment. Mr Golkonda said it had been cancelled automatically. Mr Golkonda went on to say that the Gas Safety Certificate carried out in March 2017 was not HMO compliant and before the property had been rented out. The HMO licence had higher standards. After work had been done a further certificate was issued on 25 August 2018. Mr Golkonda said that he had been told by HMO Scotland that the fire in the living room needed to be disconnected and sealed. He confirmed HMO Scotland was a private company providing advice on making properties compliant with HMO legislation.
113. Mr Sutare continued to question Mr Golkonda as to whether he had cancelled the appointment on 22 February 2018 and Mr Golkonda continued to confirm it had been done automatically. Mr Golkonda said he had cancelled

the appointment for 18 April 2018 and had sent a text to Mr Sutare confirming this. He said he had cancelled it because a new certificate was not required and did not want to use British Gas.

114. Mr Sutare referred Mr Golkonda to the text messages at Production 1/59 and asked why if Mr Golkonda was so scared of him was he coming to the property. Mr Golkonda said as he was a good landlord he kept in contact but the position was not good and as he had not received a reply he had sent another message saying he was not coming.

115. Mr Sutare asked if Mr Golkonda had entered the property on 5 May to speak to Jordan (Schroeder). Mr Golkonda said he had not entered the property he had stayed outside. Mr Golkonda said he had no conversation or face to face conversation with Mr Sutare since the police incident and had not been inside the property since September or October 2017. He said as a landlord he needed to build relationships he did not want a bad relationship, fights or terror and as a landlord need to keep open communications..

116. Mr Sutare again referred Mr Golkonda to Production 16/1 and the entry for 12 July 2018. Mr Golkonda said he had no knowledge of this entry. Mr Golkonda said he occasionally logged in to make appointments for his own property and then noticed appointments had been made. He said he had no idea who had booked appointment or who had made the call. He was cautious as he did not know Mr Sutare had made it. He did not know when it was cancelled, He had been made aware by British Gas that they had a bad chat with Mr Sutare and that they had said they would put the phone down if Mr Sutare threatened the company. Mr Sutare had used the "f" word. Mr Golkonda said that British Gas usually had standard slots for attending a property of 10-2 or 1-6 unless the work had special priority. Mr Golkonda said his wife usually books appointments with British Gas. Mr Golkonda could not remember logging in. Once an appointment was completed it did not show in the history. Mr Golkonda repeated that there was a valid gas safety certificate until 25 August 2018 and could not add any more. Mr Sutare indicated he had been frightened his gas supply would be cut off if the gas safety check was not done. Mr Golkonda said the gas supply had nothing to do with Homecare.

117. Mr Golkonda said he had not received the gas safety Certificate following on from the inspection arranged by Mr Sutare on 10 July 2018. He had instructed the Flat Company to deal with obtaining a new certificate. They were a respectable agency. They needed evidence provided to them.

118. Mr Golkonda confirmed his wife was a joint owner in the property from when the property was purchased on 22 February 2017. Mr Sutare referred Mr Golkonda to Mr Sutare's production number 22. Mr Golkonda said that as

soon as he had been informed his wife had to be registered, he had done so. He had been registered since 2010. He did not know it was mandatory for joint owners to be registered. Mr Golkonda confirmed that his wife had consented to the application to the Tribunal.

119. In response to a query from the Tribunal as to why when requesting payment of the sums due in the text message of 25 September Mr Golkonda had not asked for payment of the deposit Mr Golkonda said he had given Mr Sutare notice that he was to leave so did not bother asking for the deposit only the rent.

#### Day 3 of the Hearing 7 October 2019

120. There were a number of preliminary matters to be dealt with at the commencement of Day 3. Mr Sutare had submitted a motion to adjourn the Hearing. He argued that it would be a breach of his Human Rights to proceed with the hearing as under Article 9 there was a right to religious freedom. 8 October was an important religious festival in the Hindu calendar and he wished to celebrate it with his friends and family in London. It was a two-day festival and would not be available on 8 October either. The Tribunal explained to Mr Sutare that it had at the end of the previous day's hearing taken account of Mr Sutare's non-availability to attend a hearing during Diwali and that there was a need to balance both parties needs and those of the Tribunal. Mr Sutare had been offered different venues but these had been unacceptable to him. He had not given any indication to the clerk of there being any other days that would be unacceptable on religious grounds. Mr Sutare was also seeking an adjournment as he wished the Tribunal to issue directions ordaining Mr Golkonda to lodge various documents all as detailed in Mr Sutare's email of 16 September 2019. The Tribunal queried with Mr Sutare if he knew what a fishing expedition meant and explained that this was where a party had a suspicion or thought they knew something about the other party but had no evidence to back it up so they tried to obtain documents from that party to support their case. The Tribunal explained to Mr Sutare that he needed witnesses to prove his case.

121. Mr Sutare went on to say that he had paid £1000.00 for a Council Tax bill as Mr Golkonda had transferred the council tax into his name without Mr Sutare being aware of it

122. He wanted information from HMO licensing about the number of people who had been staying in the property. And the communications between Mr Golkonda and the Council. The Tribunal again pointed out that

the Tribunal had no powers in this regard and there had not been a breach as far as the Tribunal was aware.

123. Mr Sutare was looking for further information with regards to the communications between Mr Golkonda and Landlord registration and the issues around the renewal and the property being registered and the joint registration.
124. Mr Sutare was looking for Mr Golkonda's tax returns, Council tax receipts and gas company records.
125. The Tribunal confirmed to Mr Sutare that it would be open to him to seek to amend his application if he wished to introduce new issues and then it would be up to the Tribunal to decide whether or not to allow such an amendment.
126. Having heard lengthy submissions on the preliminary matters the Tribunal decided to hear evidence from Mr Sutare on his claim under Case Reference number FTS/HPC/PR/19/0072 before adjourning and postponing the hearing assigned for 8 October 2019.
127. Mr Sutare asked to play an audio file of a recording between himself and Sajeed Baji another tenant. Mr Mathieson objected to the recording being played however the Tribunal considered it should be flexible and proportionate in giving proper consideration of the issues. Mr Sutare also indicated he was not prepared to give all of his evidence today because his case was before the Upper Tribunal.
128. The recording appeared to be of a conversation between Mr Sutare and another person he said was Mr Baji. It included Mr Sutare complaining about Mr Golkonda and being asked to leave on short notice and the HMO issues. The conversation indicated that Mr Baji was concerned about recovering his deposit from Mr Golkonda after he left the property. Mr Sutare told the Tribunal that subsequently he had met Mr Baji on Princes Street and he had been told he had not got his deposit back.
129. Mr Sutare referred the Tribunal to his production number 23 at paragraph 2. He said that it was not correct that tenants had been driven out by him. He said that other tenants had paid their deposit in cash and had never got it back. He referred the Tribunal to his Production 20 showing two transfers from his bank account to Mr Golkonda on 13 July 2017 for £320.00 and £40.00. He said he was supposed to pay £400.00 per month for cleaning. He asked if Mr Golkonda remembered being paid in cash on 29 June £320.00. The rent had increased to £360.00 to be taken as a deposit.

130. Mr Golkonda said that Mr Sutare had taken the small room for one week and transferred the rent by bank transfer. There had been no cash payment. On 13 July Mr Sutare had wanted to take the small room for one month then between that the bigger room and the rent for that was £360.00 so he had received a further £40.00.
131. Mr Sutare went on to say he had been supposed to go back to London. He had never received intimation from the Tenancy Deposit Scheme administrators. He had received a text message from Mr Golkonda saying he would get his deposit back.
132. At the end of the day's hearing Mr Mathieson requested that the Tribunal direct Mr Sutare to produce vouching/evidence to confirm that he had travelled to London for the Hindu festival on 8 October 2019. The Tribunal made an oral direction to that effect before adjourning and continuing the hearing to 18 November 2019.

Day 4 of the Hearing 18 November 2019

133. The Tribunal dealt with certain preliminary matters at the commencement of the hearing. There was a further request from Mr Sutare for the proceedings to be recorded. This appeared to be as Mr Sutare envisaged an appeal to the Upper Tribunal. For Mr Golkonda Mr Mathieson suggested it was a further complexity but was in the Tribunal's hands. After considering the request and whilst of the opinion that it did not strictly fall into the category envisaged under Rule 35 the Tribunal decided that it would record the rest of the proceedings.
134. The Tribunal then considered Mr Sutare's request to amend his claim under reference FTS/HPC/CV/18/3052 as there had been a change in circumstances. Mr Sutare wished to increase the sum claimed to take account of new issues namely the amount he was now paying for gas, electric and council tax. The Tribunal explained to Mr Sutare that it would be necessary for him to produce a figure for the amount he wished to increase the sum claimed to. The Tribunal would then determine if it was reasonable to allow the amendment or not. The Tribunal also indicated that Mr Sutare should include a figure for the compensation he was claiming.
135. The Tribunal then heard from Mr Mathieson who confirmed he was aware that there had been a change of circumstances and Mr Sutare was responsible for the utilities and council tax at the property. Mr Mathieson indicated that he did not have a difficulty with the application being amended to include these issues subject to the point that he was unaware of how much

was being claimed. Mr Sutare said that the Council tax bill was £1058.39. He did not yet know how much the utilities bill was. There was then some discussion about Mr Sutare's claim for compensation and it was suggested that he may wish to carry out some research or take legal advice on the amount of compensation he wished to claim. Mr Sutare made reference to the award the Tribunal could make in respect of a failure to lodge a tenant's deposit. He spoke of an award of three times the amount of the Council tax as being appropriate. The Tribunal determined to allow Mr Sutare to amend his claim to include a claim for the cost of the Council tax and utilities subject to these and his claim for compensation being quantified.

136. Mr Sutare referred to a further application that had been raised by Mr Golkonda to the First-tier Tribunal. The Tribunal indicated that it would have no bearing on these proceedings.

137. The Tribunal also considered a further request from Mr Sutare for the hearing to be postponed. He said he was trying to obtain evidence. He referred to an application pending for judicial review that he had made to the Court of Session in respect of the actings of the local authority in dealing with Mr Golkonda over his HMO licence. The Tribunal indicated that it appeared that Mr Sutare may be trying to introduce issues that may not be relevant to the application and that was why his request for a postponement had previously been refused.

138. Mr Sutare's position was that the local authority had made a mistake by not issuing a Rent Penalty Notice. As a result of the disclosures by Mr Golkonda he should not have charged rent in 2018. The Tribunal referred Mr Sutare to the terms of Section 144 of the Housing (Scotland) Act 2006 dealing with the suspension of rent. The Tribunal pointed out that the section was permissive not mandatory. The local authority was not obliged to issue a rent penalty notice and the date that a rent penalty notice can take effect must not be earlier than the date of the notice. It followed therefore that the Local Authority could not go back to 2017. Mr Sutare's position was that nonetheless Mr Golkonda could not charge him rent up until September 2018 as until then as there was a defect in the landlord registration Mr Golkonda could not legally charge rent. Mr Sutare's position was that as he had paid rent up to then he was entitled to the return of the rent paid. Mr Sutare said he had a submission with regards to not paying rent after October 2018.

139. There was then some discussion as the Tribunal administration had mistakenly arranged for an interpreter to be present. Mr Sutare wished the interpreter to be present as he felt the Tribunal thought he had interrupted her when she had previously interpreted the audio file on day one of the hearing.

The Tribunal confirmed this had not been the case and dispensed with the interpreter's services.

140. Mr Sutare made a further request for the hearing to be postponed pending the outcome of his appeal to the Upper Tribunal and the Court of Session. The Tribunal confirmed the Upper Tribunal had refused his appeal and had not seen the application to the Court of Session but did not consider it had any bearing on the applications and determined the hearing should proceed.
141. Mr Sutare then returned to his evidence in respect of the Tenancy Deposit Scheme application. Mr Sutare said that the significant part of the recording played on the previous occasion was that Mr Talalpadi had paid a deposit but had not got a receipt. At the time Mr Sutare said he had been so busy at work he did not want to get involved. He said he only approached Mr Golkonda in February 2018.
142. Mr Sutare referred the Tribunal to his Production number 20 the bank transfer entries of 13 July 2017 for £320.00 and £40.00. Mr Sutare said in his text of 20 July 2017 at 08.32 the deposit would be returned. Mr Golkonda said that he was expecting the deposit was that for contract 1 or contract 2? Mr Sutare said he had not known of there being two contracts before. He said after sitting in Mr Golkonda's car he had gone into the property. The door was locked. The room was locked. He had never been there before He said he had to get into the flat. He paid £100.00 by bank transfer and £220.00 in cash. This is what had happened to Mr Baji. No receipt for the cash.
143. Mr Sutare said that on 29 July 2017 Mr Golkonda came and took money.
144. Mr Sutare said that in March 2018 he had not returned Mr Baji's deposit. He said Mr Golkonda had claimed he took deposits from everybody but if you check the bank statements this was not the case. He did not give receipts He did not lodge deposit in the scheme.
145. There then followed some discussion as to how Mr Sutare should lead his evidence with regards to Case Reference CV'18/1997. Mr Sutare indicated he wished to be cross-examined rather than lead evidence but wished to lead evidence on his other case Reference CV/18/3052. As this seemed to be the only way to make progress Mr Mathieson then proceeded to lead evidence from Mr Sutare.
146. Mr Sutare confirmed that it was his position that he had paid rent up to September 2018. The rent paid in September 2018 paid for the rent for



October. Mr Mathieson asked if Mr Sutare accepted he had not paid rent for one year. Mr Sutare said that Mr Golkonda had not come for the rent and he did not know Mr Golkonda's address. When asked if he had Mr Golkonda's bank details, he said that Mr Golkonda had told him the bank account was not active anymore and that he had to pay in cash. Mr Sutare said that the rent had been adjusted to be paid at the end of the month. He said that the reason for not paying rent since October 2018 was because he had filed a claim against Mr Golkonda. And also, because he did not feel comfortable going to his address. He said he had only become aware of Mr Golkonda's address when he filed the claim against him. He said he had kept the rent for Mr Golkonda but he had not picked it up. Mr Sutare said that in June 2017 Mr Golkonda told him he wanted payment in cash only. On 10 July there was a telephone call as Mr Golkonda as going to Germany, he gave Mr Sutare his bank details. When asked if he accepted, he owed rent for the last year Mr Sutare said he did not think he owed as the responsibility lay with the landlord. He said there was a verbal agreement that he would come and collect the rent. Mr Sutare said his position was he did not owe rent for the last year. He said that his counterclaim was for more than Mr Golkonda's claim. Mr Sutare said it was the duty of the landlord to collect the rent and give a receipt

147. Mr Mathieson asked Mr Sutare how often Mr Golkonda came to collect the rent. Mr Sutare said that Mr Golkonda came many times certainly at the end of every month. He said we told him to take the money from under the Sky box. He said £360.00 was not a big amount. Reference was made to Mr Sutare's text to Mr Golkonda dated 9 February 2018 in which he said he intended to leave the room the first week in March. He also spoke about the room being available for a council inspection in January that had not been arranged and warned Mr Golkonda not to change the lock on the front door.

148. Mr Mathieson queried how the arrangements to collect the rent were made and Mr Sutare said they were by phone. He said Mr Golkonda would come for everybody's rent at the same time. Mr Sutare referred the Tribunal to Page 2 of Mr Golkonda's Halifax Bank statement for July 2017 and the entry showing a Bank Giro Credit for £2300 and a further entry on the June statement of £1584.04 on 20 June 2017 both from the Bank of Scotland. It was Mr Sutare's assertion these represented cash payments. Mr Sutare was asked by the Tribunal if he had the information previously why he had not put it to Mr Golkonda. Mr Sutare said he had the information but had not been allowed to put it to him.

149. There then followed a break in the Mr Sutare's evidence in order to take evidence from Mr Sutare's witness Mr Jordan Schroeder.

## Mr Jordan Schroeder's Evidence

150. Mr Schroeder explained he was the Deputy Managing director of a cyber security company. He offered advice on cyber security and was an adviser to the Scottish Government. Mr Sutare referred Mr Schroeder to the statement lodged as a production and he confirmed it was his.
151. Mr Schroeder confirmed he lived at 370 Colinton Road and had known Mr Sutare for three years. He said he had met Mr Golkonda on 5 May 2018. He said Mr Golkonda had asked him if Mr Sutare was anti-social. He said he had told Mr Golkonda that in his experience he had not seen anything that was a worry. He said that Mr Sutare was social, co-operative, helpful and collaborative. He said he had not heard anything from tenants or neighbours. One concern had been rubbish bins staying out for long periods of time but that had been resolved for over a year. Mr Schroeder spoke of the first time having a conversation with Mr Sutare was when he had helped with a leaking boiler at the property. He said he had not found Mr Sutare aggressive but easy to work with. He said they bounced ideas of each other. He said he had taken his toolbox and spanners to fix the boiler.
152. Mr Schroeder said that he had tried to make contact with Mr Golkonda when renovations were going on after Mr Golkonda had bought the property. He said he could empathise that someone turning up might be difficult but it had felt odd that there had been no reciprocation on the part of Mr Golkonda.
153. Mr Schroeder said he had noticed children staying on a couple of occasions but could not see residents coming or going but had heard children crying. He had been told that there were no children staying there.
154. There was noise from the flat on one occasion there had been a fight and the police had come but since then the noise had been minimal and not anti-social.
155. Mr Schroeder said that on 5 May 2018 Mr Golkonda had asked him to give a letter to Mr Sutare but he had declined to do so. He said his impression of the visit was that he was speaking to a scam artist. It had seemed strange and bizarre. He felt that he was in a social engineering situation.
156. Mr Sutare asked if Mr Golkonda said he had not seen him was he lying. Mr Schroeder said it would not match his note. He said that Mr Golkonda had asked him to let him know if there were any problems of anti-social behaviour that he could follow up in order to gain access to the property. He said he had been visited by private investigators who had been

looking for anti-social behaviour problems. He said he had told them he could not help as there was no evidence to support it and quite the contrary. He said the investigator had found it odd and was going to close the investigation.

157. Mr Schroeder said there were some property management issues. The Garden had not been maintained and it was overrun with grass.
158. Mr Schroeder said that in general he had found Mr Sutare to be a friendly person. His 4-year-old daughter was overjoyed to see him and that his experience of him was a positive one.
159. Mr Schroeder said the police had never been to his door asking about Mr Sutare and there had been no other visits about anti-social behaviour. He said that in his experience Mr Sutare was a good neighbour.
160. In reply to a question from Mr Mathieson, Mr Schroeder said he had not carried out any repair to the gas boiler but had tried to reduce the water pressure to reduce the water leak.
161. Mr Schroeder recalled asking Mr Golkonda for his contact details but did not recall his response. He said he had asked for an email address.
162. With regards to the meeting on 5 May 2018 Mr Schroeder said Mr Golkonda was looking to get him on board to side with him to cast his tenant in a certain light so he would provide him with additional information about anti-social behaviour. He thought he was wanting to inflate information that he was not a fit tenant.
163. Mr Schroeder said that Mr Golkonda's approach by appealing for sympathy by talking about losing money, his daughter's schooling, the heartache and sleepless nights had the hallmarks of a scam. When asked if all these things were true would he stand by his assertion Mr Golkonda was a scam artist Mr Schroeder said he would still stand by his statement as the approach was characteristic of a scam artist.
164. On re-examination Mr Schroeder said he had not witnessed or observed any conflict between the parties but had heard loud banging on the door in the first part of 2018.

#### Mr Sutare's Evidence Continued

165. At the re-commencement of Mr Sutare's evidence Mr Sutare spoke of the Tribunal "impeaching" Mr Golkonda following on from Mr Schroeder's evidence. This centred on whether Mr Golkonda had or had not entered the

property. Mr Golkonda confirmed he had spoken to Mr Schroeder outside the property he had not gone in. The Tribunal advised Mr Sutare that it would weigh up the evidence at the end of the case. Mr Sutare indicated he thought the Tribunal was biased. It would be open to both parties to make their submissions on the evidence and the credibility of the parties and their witnesses at the end of the case. There was then some further discussion on how Mr Sutare was leading his evidence and the fact that Mr Golkonda's solicitor was leading evidence from him. The Tribunal pointed out that this had been at Mr Sutare's request and that it was unusual. Mr Sutare queried how he could ask questions of himself. The Tribunal explained to him that it would be possible for him to lead his evidence by stating what had happened when and how and by referring to the various documents. Mr Sutare said that he was at a disadvantage as he was not a solicitor and the Tribunal confirmed it was trying to accommodate him as best it could. Mr Sutare made reference to English Court procedures and opening statements and the Tribunal explained that procedures before the Tribunal were not the same. The Tribunal indicated that it was concerned that the method chosen by Mr Sutare of giving his evidence by being led by Mr Mathieson might put him at a disadvantage but Mr Sutare confirmed that was how he wished to proceed with regards to Case Reference CV/18/1987.

166. Mr Mathieson asked Mr Sutare how was Mr Golkonda collecting the rent in cash. How often and how was it arranged. Mr Sutare said he was going to come on the 29<sup>th</sup> of every month. He said Mr Golkonda knew where the money was and he was collecting from the others also.
167. Mr Sutare was referred to Production 1/24. He said he had not received the text and that it was faked. He said he had not received any of these messages.
168. Mr Sutare was referred to Applicant's Production 4 a letter from Legal for Landlords dated 26 October 2017. Mr Sutare said he never received the letter.
169. The Tribunal queried with Mr Sutare why he thought the text messages were faked as there appeared to be a trail starting a production 1/22. The Tribunal also queried whether it was being suggested the messages had been faked or not received. Mr Sutare said he had previously given an explanation. He said he was the guy who was making trouble. The boiler was in his room. He said this was a made-up application. Sometimes Mr Golkonda was talking nicely other times nastily. Mr Golkonda had made up another case for £20000.00 for not paying rent for the other rooms.

170. Mr Mathieson referred Mr Sutare to Production 9 correspondence from TC Young dated 2 May 2018, Notice to Quit and Form AT6. Mr Sutare said he did not receive these. He had been away from the property at the time.
171. Mr Mathieson referred Mr Sutare to Production 9/5 an Execution of Service by Sheriff Officers dated 9 May 2019 confirming service of the Notice to Quit and Form AT6. Mr Sutare said he never received it. He had been on a business visit and had returned on 10 May 2018. He recalled that a Council visit had been arranged for 8 May and he had said he could not make it and he had not given his key to anybody. Mr Sutare said if he had known about the Notice to Quit and the Form AT6 he would have stopped paying money to Mr Golkonda.
172. Mr Mathieson again referred Mr Sutare to Production 9/3 and said that showed there was £3240.00 owed to Mr Golkonda and suggested Mr Sutare was aware of the arrears. Mr Sutare asked if he could object to the question. The Tribunal said it thought the question was reasonable. Mr Mathieson suggested that Mr Sutare was completely lying about paying rent in cash. Mr Sutare said that he had shown Mr Golkonda's Halifax bank account and that Krishna was paying cash as well.
173. Mr Mathieson asked if Mr Sutare had any bank documents to support his claim, he had withdrawn cash to pay the rent. Mr Sutare said he had taken cash from his company bank account and he did not want to disclose his company account.
174. The Tribunal queried with Mr Sutare if he had gone to the bank at the end of each month to draw £360 or £400.00 to pay the rent. Mr Sutare said he withdrew cash that was required for taxis or restaurants. The Tribunal queried if this was from Mr Sutare's company account. Mr Sutare said that was out with the scope of the Tribunal.
175. The Tribunal indicated that it wished to know how the rent was paid and enquired if Mr Sutare received a salary from his company. Mr Sutare said not every month but once a year he got a lump sum. Mr Sutare said he used cash to pay his rent and the company account for taxi and restaurants. He used his personal account for clothes. The Tribunal queried if Mr Sutare could provide his personal account to which Mr Sutare said it was a start-up account and he was not putting forward his company account. The Tribunal explained to Mr Sutare that it was trying to ascertain how Mr Sutare intended to prove he had paid rent in cash and it would help if Mr Sutare could provide some evidence of this. Mr Sutare said that £360.00 was not a lot of money.

176. The Tribunal queried why Mr Sutare would pay in cash and not insist on a receipt. Mr Sutare referred the Tribunal to what Pawan had said and they were all in the same boat.
177. Mr Mathieson referred Mr Sutare to Applicant's Production 6 a letter dated 18 November 2017 from Mr Golkonda to Mr Sutare. Mr Sutare said he never received it had been made up.
178. Mr Mathieson referred Mr Sutare to Applicant's Production number 8 a further letter dated 14 March 2018. This referred to rent arrears amounting to £2940.00 and to Sheriff Officers serving a Notice to Quit and AT6 and a request to handover keys by 29 March 2019. Mr Sutare again said he never received this.
179. Prior to the end of the day's hearing there was some further discussion on the issue of Mr Sutare being made liable for Council Tax. It was suggested the council had been given a moving in date of September 2019. Mr Sutare said that was clearly not correct. Mr Sutare again proposed a postponement for further investigation and also to await ascertaining what his utility cost were going to be. The Tribunal indicated that it intended to complete the case by the end of the year and was not minded to postpone and the cases were continued to 19 November 2019.

Day 5 of the Hearing 19 November 2019

180. The hearing commenced with a request from Mr Sutare to allow late productions. These were adverts for Mr Golkonda's rented properties Mr Golkonda also had late productions these were edited accounts from his mobile phone provider showing the text messages sent to Mr Sutare. Mr Sutare said that he would need several days to authenticate the documents. The Tribunal allowed a short adjournment to allow the Tribunal and the parties to consider the late productions. Following the adjournment, the Tribunal allowed both sets of productions to be received and noted Mr Sutare's objection to Mr Golkonda's productions being allowed.
181. The Tribunal pointed out that Mr Sutare had made quite serious allegations that Mr Golkonda had faked the sending of text messages to Mr Sutare and Mr Golkonda had now produced further documents in support of his position that the texts had been sent to Mr Sutare but the authenticity of these documents were now being challenged by Mr Sutare. The Tribunal queried with Mr Mathieson how he intended to prove they were valid documents. Mr Mathieson said he would be able to obtain an email from the

provider 3 to show they had been downloaded. The email would be provided to the Tribunal. The Tribunal suggested that one way forward would be for the Tribunal to access an unedited version of the document from the provider as like Mr Sutare the Tribunal needed to be satisfied as to the authenticity of the documents. As the case was being continued to a further hearing in any event Mr Sutare would have time to make enquiries with his own provider as to the authenticity of the documents.

182. There then followed some discussion as Mr Mathieson submitted that Mr Sutare had never put to Mr Golkonda during his cross-examination the text messages were fake. Mr Sutare's position was that Mr Golkonda waited until he had heard Mr Sutare's evidence before submitting the documents therefore he clearly had a plan. Mr Sutare said he had previously produced a document that had not been allowed that showed he had not received the texts. The Tribunal suggested he would be able to get documents from his provider prior to the next calling of the case. Mr Sutare suggested it would take two months to get the information. The Tribunal indicated that the parties had to move on today. The Tribunal was satisfied that Mr Golkonda had a reasonable excuse for the late lodging of the documents under Rule 24 as Mr Sutare had raised the issue that the text messages were fake.

183. There then followed a discussion between the Tribunal and Mr Sutare as to whether he was saying because he had not received the texts they were fake or whether the texts had never been sent. Mr Sutare was unhappy at the issue raised by the Tribunal and in the circumstances the Tribunal suggested that the parties moved on and this matter could be further addressed on the next occasion once Mr Sutare had taken the matter up with his mobile provider. Mr Sutare continued to complain about the decision of the Tribunal being prejudicial to his case because it had not previously allowed him to lodge a document which had Mr Golkonda's number at the top.

184. The Tribunal reminded Mr Sutare that at the close of the previous day's evidence the Tribunal had been asking Mr Sutare about his loss of income. Mr Sutare explained that the limited company did not fall under the scope of the First-tier Tribunal. He said that if he used an umbrella company the invoices used his name but were issued in the name of the company. The daily rate charged was £375.00.

185. Mr Mathieson asked Mr Sutare when he came to Edinburgh and Mr Sutare confirmed it was on 29 June 2017 at about 8.00. He gave Mr Golkonda £220.00 in cash and transferred another £100.00 to Mr Golkonda once inside the property. He then went back to London for a couple of weeks and brought £4000.00 in cash with him. He said he took the cash with him in case of

having to travel to India for an emergency. Mr Mathieson asked if used it to travel to India and Mr Sutare said no he had not gone.

186. Mr Sutare was referred to Production 1/7 and the text of 20 July. Mr Sutare said he never received it. Mr Sutare said he thought the £320.00 he had paid was for the deposit. He had spoken to Mr Golkonda about this on the phone but could not remember when he had spoken to him. Mr Sutare said that when he had been cross-examining Mr Golkonda, he had still thought that the money paid was the contract 1 deposit. He said the 29<sup>th</sup> of the month was when he was supposed to pay every month.
187. Mr Mathieson referred to Production 10 two rent receipts dated 24 September 2017 and which Mr Sutare said he had not received. Mr Sutare objected to answering questions he had previously answered.
188. Mr Mathieson referred Mr Sutare to Production 1/32 and 1/39 and that at the end of the text it referred to £2220 being due. Mr Sutare said he understood that was for the loss of rent for the other rooms because of the HMO. He said he had no idea how he got the figure. Mr Sutare went on to say that Mr Golkonda had tried to claim for loss of rent for the other rooms but the claim was refused.
189. The Tribunal queried with Mr Sutare if the rent due in December was said to be £1860.00 and a further month's rent then became due that would make rent due of £2220.00. Mr Sutare said he was paying the rent and was being asked for more for the other rooms.
190. Mr Mathieson asked Mr Sutare why he did not reply by saying he was paying the rent. Mr Sutare said it was his right to respond or not respond. He said he was not co-operating with me and not repaying me. He said he had been more concerned about the boiler repair. He had needed peace of mind when the boiler was leaking and it was his choice to answer or not.
191. Mr Mathieson asked why Mr Sutare had then paid rent in cash for the next seven months. Mr Sutare said it was a rollercoaster after that. He had not foreseen what was going to happen to him. Sitting here it was a stupid thing to do.
192. Mr Mathieson pointed out to Mr Sutare that he had told that Applicant to take him to court and asked if had not wanted some sort of evidence to prove his case. Mr Sutare said he had spoken to Mr Golkonda and he had said he needed help from him and he had not been aware Mr Golkonda was planning something else. Mr Sutare said he had not believed Mr Golkonda would go to court. Mr Golkonda had said he would not come to the property



because he was scared of me then he said he wanted a good relationship with me and it was sorted out.

193. Mr Mathieson referred Mr Sutare to Production 1/43 a text dated 25 February 2018 in which Mr Sutare accused Mr Golkonda of money laundering crimes. Mr Mathieson said that did not sound like someone Mr Sutare was getting on with. He asked Mr Sutare the basis of his allegation for suggesting Mr Golkonda was money laundering. Mr Sutare replied because he was annoyed and because of his discussion with Pawan.
194. Mr Mathieson suggested to Mr Sutare that the accusation of money laundering, tax avoidance, the reports to the police, the allegations of harassment, or that the property was not a licensed HMO were all a smokescreen to get away from the fact that Mr Sutare was not paying the rent. Mr Sutare denied that was the case. He had not known about the landlord registration issues until January 2019. He had been aware of the HMO and after that incident he had been there to help with the HMO many times.
195. Mr Mathieson asked Mr Sutare if he had been so insistent in having the cases all heard together because he did not want to pay rent and one case could be offset against the other. Mr Sutare said that as the evidence was the same all the cases should be heard together.
196. Mr Mathieson asked Mr Sutare if he liked living in the property. Mr Sutare said yes but there were some maintenance problems. Other Indians had been staying there. Mr Sutare confirmed he was now the only resident. He said the Wi-Fi was not active. He was staying only to fight the case otherwise he would have to stay in a hotel for the Tribunal.
197. Mr Mathieson said you are living in a 5-bed property on your own and pay no rent. Mr Sutare said he had his own room and the other rooms were locked.
198. At the commencement of the afternoon session of the hearing Mr Mathieson asked the Tribunal for permission to amend the sum claimed to increase it to £10080 and produced an amended rent statement. The Tribunal queried with Mr Sutare if he was prepared to agree to the amendment without the need for intimation in terms of the Rules. He indicated he was not. The Tribunal referred the parties to the Terms of Rule 14A of the 2017 rules that required an amendment to be intimated to the Tribunal and the other party not less than 14 days prior to the hearing. Mr Mathieson then asked the Tribunal to allow the amendment if the hearing proceeded beyond the 14-day period

failing which the sum claimed would remain at the amended sum claimed at the Case Management Discussion of £5400.00 in October 20018.

199. Mr Mathieson confirmed that Mr Golkonda had been able to provide the Tribunal with an unedited version of the text messages sent from his mobile provider 3.
200. Mr Sutare referred to the Letter from Legal for Landlords dated 26 October 2017 that he said he never received but by 18 November Mr Golkonda was in a mood to get something from him and was happy to give him a rental agreement. For his part Mr Golkonda said that he recalled Mr Sutare asking for a rental agreement. It was Mr Golkonda's position that if Mr Sutare wanted an agreement he would provide one and it would be on the same basis but he needed ID details. He asked for these but did not get a response. He said he sent a text on 9 January 2018. There was no reply. Mr Golkonda repeated that if Mr Sutare wanted an agreement, he would have provided it.
201. Mr Sutare said that Mr Golkonda had made an inconsistent statement as in September when asked he had said he had not wanted to provide a tenancy agreement but Mr Sutare had wanted it. Mr Sutare referred to Mr Golkonda's text of 8 September here he said he would leave the agreement at the door but now he was saying he was not sure if Mr Sutare wanted an agreement. Also, the text of 9 January did not say the information was required for a rental agreement.
202. Mr Sutare referred the Tribunal to Mr Golkonda's Production 5 the letter of 18 November 2017 which was the same day as sending the documents for the hearing. There was no postal receipt and the document had been made up for the Tribunal.
203. Mr Golkonda again said that his position remained the same if a tenant wanted a tenancy agreement, they could have it. He had to give it to them. People even want it after they have left. If they got a Notice to Quit they may still want a tenancy agreement.
204. Mr Sutare denied receiving a Notice to Quit. Mr Golkonda said that although Mr Sutare had owed him money, he still offered him a tenancy agreement. Mr Sutare pointed out he had never been given a rental agreement.
205. Mr Sutare went on to suggest that Mr Golkonda had said he only had three properties when in fact he had four properties. Mr Golkonda asked Mr Sutare for dates as he kept making allegations. The Tribunal queried the

relevance of the number of properties Mr Golkonda might have and Mr Sutare said it showed habitual fraud on the part of Mr Golkonda. He again referred to some people paying rent in cash and this not being shown on Mr Golkonda's bank statement. Mr Sutare said it was relevant to Mr Golkonda's credibility. Mr Sutare referred again to the entries on Mr Golkonda's Halifax Bank statement. Mr Golkonda said these were from his salary. He said it was wrong of the Tribunal to allow Mr Sutare to make allegations about him. Mr Sutare said that people staying in the property had claimed they were paying by bank transfer but where were the entries on the account. The Tribunal noted it was Mr Sutare's position that the entries of £1584.04 and £2300.00 referred to cash payments made by tenants.

206. Mr Sutare said that the City Lets advert lodged as a late production showed four properties for rent in Edinburgh by Mr Golkonda. He said he had found the website from a search on Google. Mr Golkonda said this was the first time he had seen the document. He said he was concerned that there was a cybercrime issue. He explained he had let his properties through an agency. He was surprised the website had his mobile number. He currently had two buy to let properties plus his own property. He had sold another buy to let property last year. He had purchased his first property in 2005. He said the postcode for Colinton Mains Road was EH213 9BS. The property with postcode EH12 8SU was the one sold last year. EH12 8YP was the postcode for the Craigievar Square property. EH12 8LS was a typing error as that advert also was for Craigievar Square.

Day 6 of the Hearing 25 November 2019

207. At the commencement of the hearing Mr Sutare said he had a 14 Minute recording of a telephone conversation he had with his mobile phone provider 3 which explained why a text message could be sent but not delivered. Mr Mathieson had no objection to the audio recording being played and the Tribunal agreed to listen to the recording.

208. Mr Sutare requested the Tribunal to allow him to further cross examine Mr Golkonda with regards to the text messages that Mr Sutare had said he had not received. Mr Mathieson objected to Mr Sutare's request however the Tribunal agreed to allow Mr Sutare to ask some further questions of Mr Golkonda and noted Mr Mathieson's objection.

209. Mr Sutare asked Mr Golkonda when he had obtained the statements from 3. Mr Golkonda said he received them every month, they were uploaded to his account and were available any time. They were only kept available for twelve months. He said he had requested the statements last month. Mr Sutare said that Mr Golkonda had the chance to refer to the documents at the October hearing. Mr Mathieson questioned why that was relevant. Mr Sutare objected

to Mr Mathieson's interjection. Mr Golkonda said he did not want to give any more information but then went on to say that at the previous hearing Mr Sutare had claimed that some messages were fake. He had collected the statements recently and used them as evidence. Mr Sutare said that he had referred to the messages as being fake in September so was trying to understand why produce them now. The Tribunal suggested that as Mr Sutare was claiming the messages were fake that might be why Mr Golkonda had produced the statements from 3. The Tribunal queried with Mr Golkonda why he had not produced the statements sooner. Mr Golkonda said that at the September hearing Mr Sutare had denied receiving the messages. In about September or October He had collected the statements and because they contained sensitive information, he had redacted them. At the last hearing he had said the messages were false and he had worked overnight to 2.00 am to redact them it took hours to compile and then discussed with Mr Mathieson and then submitted them. Mr Sutare pointed out that Mr Golkonda knew his position in September and had seven weeks to get this done. Mr Golkonda said he thought he was maybe putting the question the wrong way. On 17 or 18 Mr Sutare said he was not getting the message and 3 has confirmed they were sent. What 3 cannot confirm is what happened with Mr Sutare's network but he was clear in his mind that the messages were sent. Mr Sutare said that Mr Golkonda knew way back in 2018 that he had not got the messages. To which Mr Golkonda replied that it was common for Mr Sutare to make allegations. He suggested it was for Mr Sutare to prove. He had claimed the messages were fake without producing any evidence.

210. In response to a query by the Tribunal Mr Golkonda said to clarify that after Mr Sutare said he had not received messages he had contacted 3 and received confirmation of delivery but they cannot confirm if the other party has another provider such as BT. Mr Sutare pointed out there is a difference between sent and delivered. Mr Golkonda said that when he sent a message to Mr Sutare after he pressed the send button, he received a message saying delivered.

211. Mr Golkonda said that he thought 4 or 5 messages were missing but were in the productions and Mr Golkonda said he was happy to submit his mobile to the Tribunal. Mr Golkonda explained he had taken photos of the messages and then downloaded them on to a word document. He was not sure why he had missed out the messages. But had not done so deliberately.

212. Mr Sutare referred to receiving a text in July about rent and the parties had spoken. Mr Sutare referred to a message on 15 October. Mr Golkonda provided his phone which did not show such a message. Mr Sutare referred to text on 12 August 2017 at page 9 of his production. This had shown as two messages on the 3 account. Mr Sutare asked why send the message twice. He referred to another on 14 October that was on bill 4 times. Mr Mathieson suggested that this could be where longer messages were sent, they appeared as multiple messages. Mr Sutare suggested the reason might be because Mr Golkonda was trying to verify if the message had been sent.

213. Mr Sutare Asked Mr Golkonda if he accepted that he had not received the messages. Mr Golkonda said he was aware that one of Mr Sutare's phones had been disconnected but the other was working.
214. Mr Sutare pointed out to Mr Golkonda that there had been no messages between January and February 2018 and asked why that was. Mr Golkonda said he had been out of the country as his mother had died.
215. The Tribunal queried with Mr Sutare if he had received any letters at all regarding rent arrears to which Mr Sutare said not in a physical format.
216. The Tribunal asked Mr Sutare what he had meant in his text of 25 February 2018 at 13.33 by referring to threatening letters. Mr Sutare said this was in relation to Mr Golkonda threatening to sue him about the HMO licence and the application that had been dismissed.
217. The Tribunal also referred Mr Sutare to his text of 5 May 2018 where he again refers to threatening letters. Mr Sutare said this was because Mr Golkonda had told him he had sent an AT6. He said he had paid Mr Golkonda money once he had calmed down. Mr Sutare also said that Mr Golkonda was saying the rent was due on the 13<sup>th</sup> of the month when it was due on the 29<sup>th</sup>.
218. Mr Sutare returned the Tribunal to the issue of the postcodes on the properties owned by Mr Golkonda. Mr Sutare said that there were five postcodes advertised on the website one was accounted for by Mr Golkonda's home address, one by 32B Drum Brae South, the sold property, one by Craigievar Square and one for Colinton Mains Road. That left the postcode E12 8LS. The Tribunal pointed out that in the advert this was said to be the property at Craigievar Square. Mr Sutare remained of the view that this was a fifth property. Mr Golkonda again said it was a typo and the postcode was wrong. Mr Sutare suggested it would be necessary to check with the land registry.
219. Mr Sutare then referred the Tribunal to the claim by Mr Golkonda that Mr Krishna intended to return to the property and referred the Tribunal to the text message of 9 August 2018. Mr Sutare pointed out that Mr Krishna had been on Mr Golkonda's witness list. Mr Sutare suggested that Mr Golkonda's story did not add up.
220. Mr Sutare said that initially he had submitted both his applications to the Tribunal on one form and then submitted two separate applications, one under the Tenancy deposit scheme and one for misrepresentation, fraud, breach of contract and loss of earnings.
221. Mr Sutare said there was never a contract 1 and contract 2. The start date of his tenancy was when he moved in and at that time he paid £220.00 in cash and £100.00 by bank transfer. Mr Sutare referred the Tribunal to Mr Golkonda's production number 5.

222. Mr Sutare referred the Tribunal to the fact that Mr Golkonda had registered the property with the local authority in September 2017. Further to the Tribunal's direction of 10 October additional documents were lodged by Mr Golkonda. Mr Sutare commented the original application was not submitted. The email exchanges referred to Mrs Sutare being a joint owner and it being a requirement for joint owners to be registered. Mr Sutare suggested that Mr Golkonda claimed to have tried to have registered the property but the council did not do it. It was he said then registered in October 2017 and a "fine" taken. Mr Golkonda accepted that when the property was first let it was registered only in his name and not jointly. It was registered in joint names on 18 September 2018.
223. Mr Sutare referred to the texts on pages 13 to 15 of his productions as confirmation of the exchanges between himself and Mr Golkonda. He also referred to the bank statements at production numbers 18-20. He referred to the picture of the two rooms Production 17 and said he had been given the wrong room when he arrived. Initially he was in what had been the dining room.
224. Mr Sutare referred the Tribunal to the email from Landlord Registration dated 23 October 2018 (Production number 22) confirming the date Mr Golkonda registered the property was 26/10/2017 and the date the joint owner was registered was 17/09/18.
225. Mr Sutare referred the Tribunal to Production 23 a response from Mr Golkonda to the First-tier Tribunal dated 2 November 2018 in relation to an application for a right of entry.
226. Mr Sutare referred the Tribunal to Production 21 an email from PC Andrew Martin to Mr Sutare dated 20 November 2018 confirming his understanding that five males were residing at the property in their own rooms on 19 July 2017.
227. Mr Sutare said that after being given one week's notice to leave the property he contacted the council who told him he had to be given two months' notice. He said when he had moved into the property, he had been told everything was fine and that it was all legal.
228. Mr Sutare said he had started work on the HMO in April 2017 but that was not true. The date of the first assessment was 25 August 2017. He said that the reason that people from HMO Scotland were not there was because people had been at risk. He referred the Tribunal to Mr Golkonda's Production 3/7. The property was said to be licensed as HMO for up to four occupants. They were said to be "long stay tenants" The dining room was now a bedroom. He had been told that Mr Golkonda had already got an HMO licence.
229. Mr Sutare referred the Tribunal to Production 3/13. This said that tenants should be trained in testing the fire alarm system. This had never happened.

230. Mr Sutare referred the Tribunal to Production 3/14 and submitted that the items checked were in the common hall and the bedrooms had not been checked.
231. Mr Sutare made reference to Production 2/8 a bill from HMO Scotland dated 9 October 2017 and suggested this was because the work had probably only started in October 2017. Mr Sutare said that at the time his priority had been his work. He had only gone to the council in November 2018.
232. Mr Sutare said that on 24 February 2018 there were issues with the gas boiler. He referred the Tribunal to Production 2. This was a letter from British Gas to the occupier reminding him that the Gas Safety Certificate was due for renewal by 10 March 2018. Mr Sutare said it was his understanding that the owner would have received a similar letter so both he and Mr Golkonda knew the Gas Safety certificate was due. He said he thought Mr Golkonda would do it.
233. Mr Sutare spoke again of the rent due date as being the 29<sup>th</sup> of the month. He referred the Tribunal to his text message on 17 August (Production 1/16) In this message Mr Sutare said he was prepared to pay the rent early if he received the rent receipts. Mr Sutare said he had paid the deposit on 13 July not rent. Mr Sutare then referred to Production 1/24 the text messages of 25 and 27 September and then to the texts of 26 March (Production 1/54, 1/56 and 1/57).
234. Mr Sutare spoke of there being a pre-payment gas meter at the property which he used to top up and would claim back the payment from Mr Golkonda. He said he had gone once together with Pawan and topped up. He understood Mr Golkonda had already paid Pawan. He said he asked one time after Pawan left but was told that the meters had been changed and were no longer prepayment.
235. Mr Sutare again referred to the letter from British Gas reminding of the need for a gas safety check before 10 March 2018.
236. Mr Sutare said that the HMO people came to the property five times and he gave them access and on one occasion he had been present. He referred to the two text messages on 13 August 2017 on page 5 of his list of messages. He said as there was no lock to his cupboard, he had told Mr Golkonda to stay with the worker. His things were all scattered and he had private documents.
237. Mr Sutare referred to the work done on 26 February 2018 by British Gas and said he had stayed at the property while the work was done and before that as well. He said that on 24 February the boiler had been leaking and he had used a bucket to catch the water. He had been unable to sleep. Mr Sutare referred to Mr Golkonda's production 16 the print out from British Gas and said it could have been edited. He spoke of not claiming for the cancelled appointment on 22 February. He referred the Tribunal to production 65 which was the letter from String Consultancy Services to the Tribunal detailing the

days he had been absent from work. The two additional days had been 23 February and 26 May 2018. Mr Sutare said the loss was to him as he was not at work. He had assigned the company to charge on behalf of him.

238. Mr Sutare explained he was a software consultant he worked for big banks. He had been employed directly for this bank. They had found his cv on linked in. The bank was invoiced by Strings. He described Strings as a start-up company. It was like an umbrella company. The Tribunal queried if he could work from home. Mr Sutare said he could not due to the expensive systems in the bank. He could not be paid if he was at home. Mr Sutare said he received a minimum salary from the company because it was a start-up company. He said he had been to different countries. He had done research and used company money. He said one client did not work out. The Tribunal suggested that Mr Sutare made a lot less than £375.00 per day. Mr Sutare disputed this and referred to the invoices issued by Strings. He said these were legitimate invoices issued from the company. The Tribunal queried if Mr Sutare took a day off would he not get paid. Mr Sutare said he would get nothing from the employing company. He said it as an automated system. The timesheet had to be approved. He had to sign in and sign out. His company sends an invoice to the employer for the days worked.

239. Mr Sutare said that the letter from Strings Consultancy had been prepared by his CA but on company notepaper. The Tribunal asked for the name of the CA. Mr Sutare said the CA never puts his name on the letter. He said the only person employed by the company was himself.

240. Mr Sutare referred the Tribunal to Mr Golkonda's Production 16. He explained he was claiming for loss of earnings for two additional days namely 23 February and 26 May 2018. He also explained that he had stayed off work on 26 February 2018 and referred the Tribunal to the Scottish Gas Engineers Customer Checklist of that date (Mr Sutare's Production 25). Mr Sutare said that he had told Mr Golkonda in his text message of 25 February 2018 that he would stay at home to allow the engineer to come. He also said that in his text of 25 /February at 13.21 Mr Golkonda was not assisting him about the water leak but instead going on about the HMO licence (Production 1/39). Mr Sutare said he was scared he would be blamed if the property was damaged and he had o stay at home the next day but he had to go to the office for 5 to 6 hours. However, as the engineer had already been booked, he had to stay at home. He said that on 26 February the engineer replaced valves and hosepipe and told him that a full service was due in one month's time.

241. Mr Sutare said that on 6 March 2018 there was an issue with the broadband connection at the property. He said he had been told by Mr Golkonda that it had previously been provided as a courtesy but it had been suspended. He said that as Mr Golkonda still had the telephone line in his name, he was unable to have the broadband reconnected. He said he had called BT who had told him there was only one line into the property.



242. At the commencement of the hearing Mr Sutare sought to submit invoices for his services and additional documents on his source of income. This was opposed by Mr Mathieson on behalf of Mr Golkonda. He had also submitted by email on 16 and 17 December various photographs and documents.

243. The Tribunal said it was aware that Mr Sutare had sought to make two amendments to his claim under Case Reference FTS/HPC/CV/18/3052. The Tribunal indicated it had an opportunity to consider the application to amend to incorporate additional claims relating to repairs that he claimed were required to be carried out at the property and additional claims for breach of privacy and harassment contained in his email of 5 December 2019 in advance of the hearing and given the point in the procedure that the application was being made it did not consider that it would be appropriate to allow any further amendment at such a late stage and the application should be refused. Mr Sutare objected to the application being refused.

244. Mr Sutare was also seeking to amend his applications FTS/HPC/CV/18/3052 and FTS.HPC/PR/19/0072 to introduce a second Respondent namely Mrs Sandhya Rani Golkonda as she was a joint owner of the property. The Tribunal explained to Mr Sutare that she was not a joint applicant with Mr Golkonda in his applications. She had simply as a joint owner consented to him proceeding with the applications in his name. The Tribunal pointed out that the ramifications for Mr Sutare to amend his applications at this stage would be extreme. It would no longer be possible to have the applications conjoined. Mr Sutare would in effect have to withdraw his current applications and recommence them. Mr Sutare said he did not wish to withdraw his applications.

245. The Tribunal indicated the need to move on and Mr Sutare again wished his objection to be noted.

246. Mr Sutare again asked for his late documents to be allowed and suggested that Mr Golkonda had previously been allowed to lodge documents late. The Tribunal again refused to allow any further documents to be lodged and requested Mr Sutare to continue with his evidence. Mr Sutare queried with the Tribunal if it wished to consider the document that had been submitted to the Court of Session and again the Tribunal confirmed it did not.

247. Mr Sutare then referred the Tribunal to page 14 of his list of text messages and the text of 26February 2018 at 15.11 confirming the boiler had been repaired and advising the service was due in one month. He said referring to the text messages on the previous page that he had been asked to stay for the engineer to come.

248. Mr Sutare said that his Production 25 proved that he had been present when the engineer was at the property. He then referred the Tribunal to Production number 26 and said he had spoken to Mr Golkonda to tell him the

Gas Safety Inspection needed to be done by 10 March 2018. He spoke of there being a legal requirement to have a gas safety certificate and that he could have been at risk without one. He said it had been easy to obtain the number to book an appointment.

249. Mr Sutare again spoke of the broadband being disconnected in his text message of 23 March 2018 and that by that time he was the only tenant in the property. He spoke of Mr Golkonda wanting him to pay for the HMO losses.

250. Mr Sutare said he had never received the AT6 or letters said to have been delivered on 26 March 2018.

251. Mr Sutare said he had been at the property the whole day on 3 April 2018 other than maybe going out for lunch. He said that he had informed Mr Golkonda that he would stay in and had done so by text and by telephone. He said they had spoken on the phone about it. He also thought Mr Golkonda would have been informed about the appointment as he was the landlord. Mr Sutare said he had already objected as regards the authenticity of Mr Golkonda's Production 16. He said he had spoken to British Gas on 23 March 2018 and told them he was not available until 3 April. He had been there that day but the work was not carried out.

252. The Tribunal queried whether the number of times Mr Sutare had been at the property for the gas engineer was disputed. Mr Mathieson said that what had happened was that Mr Sutare was arranging and cancelling appointments with no authority to do so. Mr Golkonda had cancelled an appointment on one occasion only as there had been no requirement for a gas safety certificate at that time. He said Mr Sutare had not made any contact with Mr Golkonda or the Flat Company. Mr Sutare said he had not been aware of the Flat Company until June 2018 and he had no contract with the Flat Company.

253. With regards to the appointment on 3 April 2018 and in response to a query from the Tribunal Mr Golkonda said he only knew about the appointment for 17 April when he had logged on to the website. He did not know who had made the appointment so he had called British Gas and was aware it had been made by Mr Sutare. He told British Gas it had been made without his authority and he cancelled it. Mr Golkonda referred the Tribunal to his Productions 1/59 and 1/60 in which reference is made to him cancelling the appointment. For his part Mr Sutare said that Mr Golkonda called British Gas to cancel the appointment the day before. If he had told him earlier, he could have cancelled his leave and worked that day instead. It was too late by the time he was told at 17.52 On 17 April.

254. Mr Sutare referred to the contract for his services which had been submitted previously. He referred the Tribunal to his Production 65 – the letter from String Consultancy Services Limited. He said this had been prepared by his CA using String Services old headed notepaper with its old address. He said the company's registered address had been changed. He said the source of the income was his.

255. Mr Sutare requested that he play an audio file of a recording he had with Scottish Gas. He confirmed the file had previously been sent to Mr Mathieson. The Tribunal agreed to the recording being played. The recording was of Mr Sutare seeking confirmation apparently on 26 May 2018 from British Gas that the appointment made for 27 May would go ahead and would not be cancelled. Mr Sutare is heard to say that if the Landlord calls British Gas should not cancel the appointment. He is heard to tell the adviser that he is paying out of his own pocket for the engineer. He says that he admits he has said something to the landlord he should not have and the landlord wants to evict him. He spoke of the landlord cancelling the appointment on the 17<sup>th</sup> April. He asked the adviser if he could send an email confirming. He asked as the calls were recorded if he could be sent a recording of the call. There was then a discussion about being transferred to the Landlord's team but then he was told he could not get information from the landlord's team. There was then a further discussion between Mr Sutare and British Gas largely confirming that they could not restrict the landlord and that any dispute between the Landlord and Mr Sutare would have to be sorted out between themselves. British Gas then confirmed that if the appointment was cancelled Mr Sutare would not get a text. He was told that if he took the Landlord to court then he could get the recording of the call.

256. Mr Sutare again referred to the additional two days that he was claiming loss of earnings for namely 25 February and 16 May 2018. He then confirmed that the Gas safety certification had been carried out on 11 July 2018. The Tribunal said it had noted that Mr Sutare was claiming loss of earnings for 10.5 days and asked if Mr Sutare had anything to add. Mr Sutare referred the Tribunal to pages 27 and 28 of his productions. He confirmed he had been present at the property on 11 July 2018. He said he had been lucky that day. He said he had booked the appointment the day before and that he had been scared the gas company would close down the system and he would have no heating and no hot water if the gas safety certificate was not done. He referred the Tribunal to pages 31 and 32 of his productions – the gas safety certificate. He said it clearly mentions the issues that it was an old boiler and that the gas fire was disconnected. He referred the Tribunal to Production 71 and confirmed the gas fire was still inoperative. He said cold air came from this area. Mr Sutare referred the Tribunal to Production 31 – confirmation from Scottish Gas that an appliance checked was not safe. He also referred the Tribunal to Production 30 advising that the pressure relief pipe was pointing the wrong way and should point back towards the wall. This he said left him at risk.

257. Mr Sutare referred to the Right of entry application made on behalf of Mr Golkonda on 5 December 2018. He said the application was deliberately changed for the benefit of the letting agent as it was not possible to make an application for commercial purposes. Mr Sutare said he had told Mr Wilcken the Gas Safety Certificate had been done. Although Mr Golkonda said he had never received the Gas Safety Certificate Mr Sutare said he would have seen it online. Mr Sutare disputed that a landlord would have the right to enter his own property, he said he had a right to quiet in his house but then changed his position and said Mr Golkonda did have the right on giving adequate notice. He

said Mr Golkonda had come frequently before but he did not want to give him access to his room. As he had to shift his stuff and he had a lot of stuff.

258. Mr Sutare went on to say that on 6 December he had called the Flat Company as something was not working with the boiler. He had then taken a half day off work.

259. Mr Golkonda confirmed that problem was reported and The Flat Company arranged for an engineer to inspect. Mr Sutare was told if there was nothing wrong, he would be charged for the call out. The engineer went that day and inspected the boiler and no fault was found. The Tenant was to be charged and there had been lots of arguments about that.

260. Mr Sutare said he arranged for British Gas to come out on 7 December. He referred the Tribunal to a video recording he had made of the British Gas Engineer's visit. He said it showed the Flat Company engineer had tampered with the boiler. The video showed that the gas engineer the previous day had linked two wires together to bypass the thermostat. Mr Sutare said he had taken a further day off work.

261. Mr Sutare made reference to the Council not serving a Rent Penalty Notice. He said his point was that once the Council were aware of their mistake about the unlicensed HMO and the problem with Landlord Registration, they should issue a Rent Penalty notice. Mr Sutare again made reference to his petition to the Court of Session. The Tribunal noted that from the correspondence provided by him from the Court of Session it appeared that his application for judicial review was still being considered by the Court. Mr Sutare said his position was the council did not take the right action against Mr Golkonda.

262. Mr Sutare returned to the issue of the gas inspection being due in March 2018. He suggested Mr Golkonda had cancelled it online. Mr Golkonda said the original booking had been cancelled through British Gas's automated system. He had made enquiries about it with British Gas.

263. Mr Sutare then spoke of there being harassment by Mr Golkonda who he said used to come to the property without notice. He said he came to the property many times in 2017 and 2018 for the rent. He would come and ask him to keep his room clean. Mr Sutare said that he had been busy with his work on 10/11 April 2018. He did not remember the exact date. He said also in March 2018. Mr Sutare said that Mr Golkonda had forced him to stay in for the HMO inspections and had told him that if he did not get the HMO licence Mr Sutare would have to pay for the rent for the other rooms. Mr Sutare said it was blackmail. Mr Sutare again said that after other people had left the property, he had left the rent money under the Sky box for Mr Golkonda to collect.

264. Mr Sutare referred to the text message of 20 July 2017 giving him 1 weeks' notice to leave the property (Production 1/6). He said this was

harassment. He also pointed out that the message said the deposit will be returned.

265. Mr Sutare spoke of asking for but not being given a rental agreement caused him distress as did Mr Golkonda cancelling the gas appointments and removing the broadband but leaving the line open. He said that asking him to pay for the HMO losses and losses for the other rooms was also harassment and caused distress. Mr Sutare said that Mr Golkonda had friends who had threatened him and that this was a criminal matter and the subject of a separate case. The Tribunal pointed out that there had been no mention of this in Mr Sutare's application and Mr Sutare again said it was a separate case. He then spoke of having the letting agency forced upon him. He said he did not have a legal duty to follow the Flat Company's instructions. He said he had no contract with them. He said they had made a false statement in order to gain access to the property when they had in fact been wanting access for commercial purposes as there was a mortgage issue. He said that amounted to harassment.

266. In response to a query regarding whether his belongings could be kept in a locked cupboard Mr Sutare said they could not.

267. Mr Sutare said other examples of harassment were Mr Golkonda threatening to change the locks at the property; asking him to leave his room for the Krishna family; making false allegations about his anti-social behaviour at the temple and employing a private investigator to make enquiries about him.

268. There then followed some discussion about a recording Mr Sutare had made with his mobile provider "3". He said he had asked a general question as to how sending an SMS works and if a phone is inactive it cannot transfer to an active phone. The Tribunal asked Mr Sutare if the recorded conversation confirmed whether or not text messages sent to an active phone were received. Mr Sutare said the conversation made reference to the delivery reports as shown on production 1/25. The Tribunal indicated that it had already been accepted that messages sent to Mr Sutare's inactive phone would not have been received by him. The Tribunal agreed to listen to the recording.

269. The adviser from 3 confirmed to Mr Sutare that if a phone number was disconnected as the contract had ended as was the case with Mr Sutare's phone with the number ending 0214 then nobody could send texts to it. The recording then went on to say that it was not possible to say that the text message had been delivered to a person's phone only that it had been delivered to that person's provider.

270. Mr Sutare went on to talk about how one of the tenants had gone in front of others in the queue for the bathroom in the morning and he had been aggressive when there had been a complaint and the police were called. Mr Sutare said the landlord had a duty to ensure that other tenants were not harassed. He said Mr Golkonda had not properly managed the HMO and this had caused distress.

271. Mr Sutare went on to say that there had been misrepresentation on the part of Mr Golkonda by failing to disclose the correct position with regards to the HMO licence. Furthermore, he had failed to provide a contract and rent receipts or done gas repairs and there had been a breach of Mr Sutare's privacy. He had not been given an AT5. He had not arranged for cleaning to be done so there was a problem with hygiene and health. In response to a query from the Tribunal as to whether he had been ill as a result of that Mr Sutare made reference to the medical certificate he had provided to the Tribunal prior to the hearing on 31 January 2019. The Tribunal noted however that it did not appear that illness was related to the condition in the property.

272. Mr Sutare then went on to say that he was looking for compensation not only for the distress caused by Mr Golkonda but also for loss of income and that the Tribunal should award punitive damages for Mr Golkonda not doing his duty and for breach of contract. The Tribunal suggested that Mr Sutare should move on with his evidence.

273. Mr Sutare then again referred to the text message of 25 February 2018 at 18.34 which he described as a service issue it had taken 12 hours for Mr Golkonda to reply.

274. Mr Sutare went on to say that Mr Golkonda was liable for the behaviour of his agent and again stated he had no contract with the Flat Company.

275. Mr Sutare then repeated his evidence regarding the issues around Landlord registration, gas and council tax

#### Cross Examination of Mr Sutare FTS/HPC/CV/18/3052

276. Mr Sutare objected to Mr Mathieson asking him questions and thought all questions should be directed through the Tribunal Chair. The Tribunal explained to Mr Sutare that now that he had given his evidence on his claim it was Mr Mathieson's turn on Mr Golkonda's behalf to ask him questions.

277. Mr Mathieson asked Mr Sutare who wrote the letter from Strings Consultancy Limited. Mr Sutare said it was the CA. Mr Mathieson asked the name of the CA and suggested it was in fact Mr Sutare who wrote the letter. Mr Sutare said that was not a relevant allegation. He used a company Chandra Shekhar. When asked again the accountant's name Mr Sutare said he objected and said he wanted to walk out as it was not a fair hearing. The Tribunal told Mr Sutare that he would have to answer the question. Mr Sutare argued that it was not a relevant question. The Tribunal explained to Mr Sutare that he needed to prove he had lost income through a company he owned. Mr Mathieson was entitled to ask questions relating to the time Mr Sutare was claiming and the question as to who wrote the letter was relevant.

278. Mr Mathieson asked who the accountant worked for. Mr Sutare said it was his own company he did not want to answer. He said he paid him money

for his work. Mr Mathieson asked if he was approached and asked did he write this letter what would he say. Mr Sutare said that the Tribunal was showing discrimination by allowing these questions.

279. The Tribunal then queried with Mr Sutare if he appreciated the difference there might be between his loss and his company's loss. Mr Sutare said in reply that he could change the company in the middle of a contract.

280. Mr Mathieson then asked where the accountant had got the information from regarding the lost income. Mr Sutare said he had told him. He went on to say the accountant prepared the invoices for the employer.

281. Mr Mathieson asked Mr Sutare how many employees his company had. Mr Sutare said he was the only one.

282. Mr Mathieson suggested it would have been possible for Mr Sutare to have written the Strings Consultancy letter to the Tribunal. Mr Sutare denied this and said it would only be the CA as he produced the invoices not Mr Sutare. He said all the timesheets were sent to the CA and he produced the invoices from them.

283. Mr Mathieson asked Mr Sutare what prevented him from writing the letter himself. He suggested the language used in the letter was language Mr Sutare would use. Mr Sutare replied saying it did not make any difference and by again saying that he could change the company. Mr Sutare said that he wished to leave as he was being intimidated. He claimed that the Tribunal was discriminating against him as Mr Golkonda was being given preferential treatment. The Tribunal asked Mr Sutare to answer the question. Mr Sutare said that they were making allegations against him. Mr Mathieson suggested to Mr Sutare he was lying. Mr Sutare denied he was lying.

284. Mr Mathieson referred Mr Sutare to Production 1/36 and 1/37 the text messages from Mr Sutare regarding the water leak and noting these were at 11.00 at night. He then referred Mr Sutare to Mr Golkonda's reply on page 1/38. He asked why in light of Mr Golkonda advising that an engineer would be out within 2-4 hours did Mr Sutare feel the need to call an engineer. Mr Sutare said it was because he had arranged for a private guy to come out. He said this person was supposed to meet him at the temple and he had told Mr Golkonda he was going out for four hours.

285. The Tribunal queried with Mr Sutare why in his evidence he had said he could have gone to work he had instead gone to the temple. Mr Sutare said he had gone to the temple to meet the plumber.

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286. At the commencement of the hearing Mr Sutare firstly wished to comment on what Mr Golkonda had said about the British Gas automatic notification. Mr Golkonda had said in his text message of 25 February 2018 at

18.13 that the gas safety certification would be due soon. He also said in his message on the same day at 19.11 that he was busy and asked Mr Sutare to stay at home.

287. Mr Sutare then went on to comment that under the Human Rights Act he had a right to a fair hearing and that he was entitled to express an opinion. He said that he had only had one and a half days for his evidence. The Tribunal pointed out that this was day 8 of the hearing and Mr Golkonda's cases had been completed on day two.

288. Mr Mathieson continued his cross examination of Mr Sutare and asked again why he had arranged another plumber on 25 February 2018. Mr Sutare said he was working that day and had told Mr Golkonda he would be out between 12.00 and 4.00. He had gone to the temple to get a guy to fix the boiler but it was old and he could not help.

289. Mr Mathieson referred Mr Sutare to Production 1/45. He said that Mr Sutare had said he was happy to come down from the office. Mr Sutare again objected to answering the question and asked if he could leave the hearing. He suggested the Tribunal was not listening to him and that the same rules did not apply to him as had applied to Mr Golkonda. He said that the Tribunal could not give 5 days to Mr Golkonda's case and only one to his. The Tribunal asked Mr Sutare to answer the question being put to him. And said that he could refer back to a specific text or document if it referred to a specific question.

290. Mr Mathieson then referred Mr Sutare to the exchange of emails that then took place on 25 and 26 February 2018 and that Mr Sutare had finished by saying he was going back to the office. Mr Sutare confirmed this was correct. He said on that day he had some personal work to do and had to take the whole day off he had wanted to go back to the office but they had said that he could not. He had not wanted to lose money but he had no choice.

291. Mr Mathieson referred Mr Sutare to Production 1/53 the text message at 17.14 on 6 March 2018 in which Mr Sutare said he required 2 days advance notice of any inspection. Mr Sutare said that Mr Golkonda was supposed to provide him with a locker for his valuables but had not done so. Mr Mathieson asked if Mr Sutare accepted that he had been given two days' notice for access. Mr Sutare said he had called Mr Golkonda who had said he was not going to do it. He was not going to buy a locker.

292. Mr Mathieson said you could have said to Mr Golkonda it is costing me £375.00 per day get me a locker. Mr Sutare said Mr Golkonda was not interested. He said he has been lying to the Tribunal. He was deliberately trying not to do the gas inspection.

293. Mr Mathieson referred Mr Sutare to the text of 1 August 2017 at 20.29 (Production 1/8) He asked if it was accepted that Mr Golkonda had offered to attend on that occasion. Mr Sutare said when it was for Mr Golkonda's purpose he came. Once work was done, he throws you out. Mr Mathieson suggested



arranging a plumber to fix the boiler on 25 February was for Mr Sutare's benefit. Mr Sutare said that was Mr Golkonda's duty to do that. He did not bother to come to the house.

294. Mr Mathieson continued to question Mr Sutare as to why he was claiming for loss of income on 26 March when the print out from Scottish Gas said the tenant was not available on that day and would not be available until 3 April. Mr Sutare's position was he had been there on 26 March.

295. Mr Mathieson referred to the claim for 18 April and asked why Mr Sutare had arranged the appointment without telling Mr Golkonda. Mr Sutare said he did not call as he would get abused. He was scared he would have his gas cut off.

296. Mr Mathieson asked Mr Sutare why he had not taken a half day or asked a friend. Mr Sutare said he could not take a half day. There was only one occasion when he had been allowed a half day in an emergency.

297. Mr Mathieson referred Mr Sutare to the appointment on 11 July and was told by Mr Sutare that it was the same answer as before.

298. Mr Mathieson referred to the claims for 5,6 and 7 December to which Mr Sutare said that he had shown the previous day that Mr Golkonda had arranged the gas inspection just to harass him. He had not engaged with the Flat Company because it was up to Mr Golkonda to give Mr Wilcken the gas safety certificate as he would have had it as well. Mr Sutare said he was not dealing directly with Mr Wilcken.

299. Mr Mathieson asked who Mr Sutare was working for. Mr Sutare said he could not tell him but the loss was a personal loss. The Tribunal asked if Mr Sutare was working for Strings Consultancy Limited and Mr Golkonda confirmed this to be correct. Mr Mathieson asked who employed Strings to which Mr Sutare replied ask Mr Golkonda about his daughter and he will not tell you. The same applied for him about Strings.

300. Mr Mathieson suggested that this caused a difficulty as the people employing Strings would be in a position to say what they had paid.

301. The Tribunal sought to clarify with Mr Sutare that the loss he had was his personal loss as opposed to the loss Strings Consultancy had lost. The application was in Mr Sutare's name. Mr Sutare said that he took back shares. The Tribunal pointed out that Mr Sutare had previously said he was paid minimum wage by Strings yet he was producing a document saying his loss was £375.00 per day. Mr Sutare said that his loss was what Strings loss was. He was an employee of Strings Consultancy and he could receive a dividend on top of his salary. He had submitted the invoices to show his loss. It had been his decision to organise his payment through a limited company. The Tribunal pointed out to Mr Sutare that Strings Consultancy Limited was a separate legal

entity from him. At this point there was a short adjournment in the proceedings to allow Mr Sutare to calm down.

302. On his return Mr Sutare said he wished to walk off the hearing. The Tribunal sought to assure Mr Sutare that he had been given every opportunity to present his case. Mr Sutare continued to insist he had not been given an opportunity to speak and he wished to complain. He again accused the Tribunal of discrimination. Mr Sutare said that he had private documents but he had not been allowed to explain. The Tribunal confirmed that Mr Sutare had throughout the proceedings been given a great deal of latitude and that a lot of the 8 days of the hearing had been taken up by Mr Sutare. The Tribunal did not think it would be in Mr Sutare's interests to leave the hearing at this stage. The Tribunal wanted to give him a fair hearing. If he left then under the Rules the Tribunal could proceed without him it was therefore very much in his interests to continue.

303. Mr Sutare went on to say that He had been cross examined by Mr Golkonda's solicitor at the hearings in November. The Tribunal pointed out that this was not the case it had gone to great lengths to explain to Mr Sutare that he had chosen to have Mr Mathieson lead his evidence in respect of his defence of Mr Golkonda's cases. Mr Sutare said that in Court you make opening statements and the Tribunal pointed out that did not happen in Scottish courts.

304. Mr Sutare repeated that if he was not allowed to speak his case he would walk out. Mr Sutare said that he felt he was being abused and he was not here to be abused. He said he had been pushed into a corner and all his family were in India.

305. Mr Mathieson the continued his cross examination. He asked if Strings Consultancy was insolvent. Mr Sutare objected to answering the question. He said he had previously explained in November the company had made purchases. The Tribunal queried if there was any relevance to questions about Strings Consultancy. To which Mr Mathieson said the point he was making was about the claim for £375.00 per day.

306. Mr Mathieson asked if it was still Mr Sutare's position in light of Mr Wilcken's evidence that the allegations of threats and physical violence contained in his text (production 14/10) were true. Mr Sutare said they were and there had been evidence from Mr Schroeder as well about May and June.

307. The Tribunal sought to query when in May or June had Mr Wilcken acted violently. Mr Sutare said it had not been then but in August when he had called him about the gas inspection. Mr Mathieson asked what had been said. Mr Sutare said he was going to come to the property and throw him out. Mr Sutare said he had told him that he could not come to the property. He had also told him he had to pay for the gas engineer. Mr Mathieson asked if he accepted Mr Wilcken was a professional letting agent to which Mr Sutare said he did not as he harassed tenant.

308. Mr Mathieson asked Mr Sutare what reason Mr Wilcken would have to throw him out when he was a professional letting agent. Mr Sutare said how are you going to check? Read his mind?
309. Mr Mathieson asked if there was anything else in Mr Wilcken's evidence that was a lie. Mr Sutare said that the gas certificate he had was the same as the landlord's. It was a lie he asked the landlord for the certificate and the landlord did not respond. Mr Sutare said he had not abused Mr Wilcken he was lying. Mr Sutare said he had not given access and that was his right.
310. Mr Mathieson asked if Mr Sutare agreed with what Mr Sureche had said. Mr Sutare said he had lied. He had said the rent had been paid into the bank but Mr Golkonda had said the first month's rent had been paid in cash. One of them was lying. Mr Mathison suggested one of them could be mistaken. Mr Sutare said that was not the case Mr Sureche had been told what to say. He had not wanted to answer the question and had said he wanted to leave. They were all paying cash. Mr Krishna had told him and Mr Krishna is still living in Edinburgh and had been on the witness list.
311. Mr Mathieson put it to Mr Sutare that it was Mr Sutare's position that Mr Golkonda, Mr Sureche and Mr Wilcken were all lying to the Tribunal. Mr Sutare confirmed that was the case.
312. Mr Mathieson asked if Mr Sutare now had broadband. Mr Sutare said he did not.
313. Mr Mathieson referred Mr Sutare to the text messages on the statement with "3". The entry on page 8 of 10 for 25 September was sent to number ending 25811. Mr Mathieson asked if Mr Sutare accepted this had been sent by Mr Golkonda to him. Mr Sutare said no it was a failure he thought it had all been made up. In response to a query from the Tribunal Mr Sutare explained that the mobile provider could not confirm incoming messages only outgoing. They could only look at a complaint if not receiving messages.
314. Mr Mathieson referred to text of 27 September production 1/24 and again Mr Sutare said that it was all made up and that it had been sent when the phone was on airplane mode. Mr Sutare said all the messages about the rent were fake.
315. The Tribunal asked Mr Sutare if he had ever indicated to Mr Golkonda that he would claim loss of income if he stayed work waiting for the gas engineer to come. Mr Sutare referred to his text of 25 February 2018 at 13.31. He said after that he and Mr Golkonda had made up and had a good relationship but then went sour again. He spoke of it being a rollercoaster. He said he left the rent money under the sky box under duress. He had previously collected it from under his pillow but had changed after three or four months. Mr Sutare said Pawan had been paying in cash and leaving the money under the sky box.

316. Mr Sutare said he had allowed access for the HMO licence in August. He had told Mr Golkonda that he could stay for 45 minutes but after that he would have to leave so the person would have to be accompanied. Mr Sutare denied ever locking his cupboard.
317. Following conclusion of all the evidence and there being insufficient time to hear oral submissions the Tribunal issued a direction for written submissions to be lodged by 5.00pm on 9 January 2020.
318. Given the length of this decision the Tribunal has not referred to the parties written submissions here as these can be read separately.

#### Findings in Fact

319. Mr Sutare rented a small room at the property from Mr Golkonda on 29 June 2017. There were four other tenanted rooms in the property at that time.
320. Mr Sutare made a payment of £100.00 by bank transfer to Mr Golkonda's account in exchange for taking up occupation of the room.
321. Mr Sutare did not make any cash payment to Mr Golkonda on 29 June 2017.
322. The rent for the smaller room was £320.00 per calendar month.
323. Mr Sutare had expected to occupy a larger room he had seen online.
324. Mr Golkonda agreed to rent a larger room to Mr Sutare at a rent of £360.00 per calendar month with effect from 14 July 2017.
325. There was no written tenancy agreement for either the tenancy of the smaller room or the larger room.
326. There was an assured tenancy constituted between the parties that commenced on 14 July 2017.
327. Mr Sutare paid rent of £360.00 to Mr Golkonda by bank transfer on 13 July 2017.
328. Mr Sutare made no further rent payments to Mr Golkonda in cash or by bank transfer thereafter.
329. Mr Golkonda ought to have had an HMO licence in respect of the property but did not.

330. Although Mr Golkonda was a registered Landlord the property was not registered until 26 October 2017 and the joint owner Mrs Sandhya Golkonda was not registered until 17 September 2018.
331. Mr Sutare paid rent of £360.00 to Mr Golkonda by bank transfer on 13 July 2017.
332. Mr Golkonda sent Mr Sutare numerous text messages requesting payment of rent between 25 September 2017 and 2 May 2018.
333. Sheriff Officers served a Notice to Quit and Form AT6 on Mr Sutare on 9 May 2018.
334. The Notice to Quit provided that Mr Sutare should vacate the property on or before 14 July 2018.
335. Mr Sutare has been the sole tenant of the property since February 2018.
336. Mr Sutare in a text message dated 9 August 2017 requested Mr Golkonda provide rent receipts for rent paid before he would transfer any more money to him.
337. Mr Golkonda provided Mr Sutare with two rent receipts dated 24-09-2017 for £100.00 and £360.00.
338. Mr Golkonda sent Mr Sutare numerous text messages requesting payment of rent between 25 September 2017 and 2 May 2018.
339. Mr Sutare told Mr Golkonda he intended to leave the property at the beginning of March 2018 but has continued to reside in the property.
340. Mr Golkonda ceased to provide a broadband connection to the property with effect from 6 March 2018.
341. Mr Sutare arranged a gas safety inspection by Scottish Gas and obtained a gas safety certificate dated 11 July 2019.
342. On a number of occasions between February and May 2018 Mr Sutare remained at the property to allow access to contractors for repairs.
343. Mr Golkonda intimated to Edinburgh City Council that Mr Sutare became liable for Council Tax at the property with effect from 20 August 2019.
344. Mr Sutare's liability for Council tax for the period from 20 August 2019 to 31 March 2020 amounted to £1058.39.
345. Mr Golkonda advised the utility company that Mr Sutare was liable for gas and electricity charges from around 20 August 2019.

346. Mr Golkonda instructed The Flat Company to act as his agent in respect of the property around the beginning of May 2018.

#### Reasons for the Decision

347. In determining this application, the Tribunal has largely had to assess the credibility and reliability of the parties, to a lesser extent the credibility and reliability of other witnesses as well as the very substantial amount of documentary evidence that has been submitted. The Tribunal took account of the audio and video recordings submitted by Mr Sutare but considered them to have limited evidential value both with regards to the identity of the persons and the relevance of the content.

348. Mr Sutare made very serious allegations as to the honesty and character of Mr Golkonda. He spoke of him being involved in money laundering activities, tax evasion and fraud. However, he was unable to provide any witnesses to support these allegations and sought to indulge in fishing to recover documents without having any foundation in fact to justify their recovery.

349. If Mr Sutare's version of the facts are to be believed then although it was said by him in his text messages of 9 and 17 August 2017 that he would not pay any more rent until he was provided by Mr Golkonda with receipts for rent already paid he then proceeded to pay rent of £360.00 every month in cash until the end of September 2018. The Tribunal was asked by Mr Sutare to accept that although he received text messages from Mr Golkonda relating to issues around the HMO licence and gas repairs, he did not receive any of his messages relating to the alleged rent arrears. The Tribunal was asked by Mr Sutare to accept that there was a conspiracy on the part of Mr Golkonda and possibly others including his agents to fabricate evidence against him in order to remove him from the property.

350. It was Mr Sutare's position that Mr Golkonda was in some way able to fabricate text messages relating to unpaid rent and have them show on his mobile phone bill as having been sent to Mr Sutare when in fact they had not. Mr Sutare suggested that this could be done by sending messages whilst a phone was on airplane mode but did not offer any proof that this was in fact what had happened. On the few occasions when Mr Sutare acknowledged receipt of a text that referred to unpaid rent he said that this in fact was for Mr Golkonda's claim for other losses relating to the problems he had caused over the HMO licence yet the text message from Mr Golkonda dated 25 February 2018 refers to rent due of £2220.00 and Mr Sutare does not deny it. His reply is "Just go to court if you think that is the case. My counterclaim is more than £3k plus legal fees."

351. It was Mr Sutare's position that he did not receive an AT6 served on him in March 2018. However, there is an email he sent to Mr Golkonda dated 26

March 2018 that says “Dear Ramesh, you don’t know the difference between sheriff officer and sheriff court. AT6 which you claimed was served by sheriff court, was actually served by sheriff officer and not the court.”

352. It was Mr Sutare’s position that he never received the letter from Legal for Landlords dated 26 October 2017 or Mr Golkonda’s letters of 18 and 24 November 2017 yet in his text of 8 December 2017 Mr Sutare says “Next time don’t send any more threatening letters, just send legal documents.”

353. It was Mr Sutare’s position that he never received service by Sheriff Officers of the Notice to Quit and Form AT6 referred to in the Certificate of Execution of Service by David Buchan, Sheriff Officer dated 9 May 2018 (Production 9/5) and his explanation for this was that Mr Golkonda must have entered the property and removed it when he was not there so that he would not know that he was being asked to vacate the property or that it was intended to raise proceedings against him. It was all part of the conspiracy.

354. The Tribunal found that Mr Golkonda gave his evidence in a calm, measured and convincing manner. It found him to be a reliable and credible witness. Whilst his evidence did not entirely coincide with that of Mr Suresh Racharela any inconsistencies were explainable as being due to a failure of memory over time rather than lies being told. Insofar as they had any bearing on this application the Tribunal also found Mr Wilcken, Mr Racharela and Mr Schroeder to be credible and reliable witnesses. The same cannot be said for Mr Sutare. As can be seen from the inconsistencies in his evidence mentioned in paragraphs 350-355 above the Tribunal was asked to accept an explanation of the facts that were not believable and in some instances were stretched beyond all bounds of credulity. The Tribunal could see no reason why Mr Golkonda would under any circumstances wish to remove the Notice to Quit and Form AT6 from the property having instructed his agents to proceed to recover possession. The Tribunal could not see why as early as September 2017 Mr Golkonda would embark on an elaborate scheme of faking texts and letters to Mr Sutare that continued right up to May 2017 if as Mr Sutare averred the rent was being paid. The Tribunal accepts that there was clearly a difficult situation ongoing between Mr Sutare and Mr Golkonda with Mr Sutare threatening to have Mr Golkonda arrested if Mr Golkonda entered his room at the beginning of September 2019 and there were further threats of legal action on Mr Sutare’s part in February, March and May 2018. However, it appeared to the Tribunal both from the documentary evidence and from the manner in which the parties gave their evidence that the evidence of Mr Golkonda was to be preferred to that of Mr Sutare. The Tribunal did not find Mr Sutare to be a credible or reliable witness in respect of much of his evidence as indicated above.

355. Mr Sutare’s claim was that before seeing the room at the property he paid Mr Golkonda £220.00 in cash without getting a receipt then he went to look at the room which was not the one he had been expecting and agreed to

transfer a further £100.00 thus paying rent for one month. He then submitted that on moving rooms he agreed to pay the deposit of £320.00 plus £40.00 for cleaning charges. This was contrasted with Mr Golkonda's evidence that Mr Sutare paid £100.00 in order to occupy the smaller room for one week, paid nothing in cash and then decided to stay and so paid £320.00 on 13 July for one month's rent and then a further £40.00 as the larger room was available for one month. It was Mr Golkonda's position therefore that no deposit had been paid and therefore there was nothing to lodge in a deposit scheme.

356. In support of his claim Mr Sutare referred to Mr Golkonda's text message of 20 July that refers to deposit and any remaining rent being refunded when he left the property. That would suggest a deposit had been paid. On the other hand, Mr Golkonda's subsequent texts, letters and rent receipts (Productions 1/24, 5, 7 and 10) although allegedly not received by Mr Sutare clearly show the rent due and payments made by him and do not indicate that any deposit has been paid.

357. In determining this application, the Tribunal has had the benefit of hearing all the evidence related to the conjoined cases and has been able to properly assess the credibility and reliability of the parties in some detail. It appears to the Tribunal that it would be very unlikely that Mr Sutare would agree to hand over £220.00 in cash to Mr Golkonda before seeing the property and without getting a receipt. The Tribunal was therefore satisfied that it preferred the evidence of Mr Golkonda and concluded that no cash payment was made by Mr Sutare and therefore no deposit was paid.

358. Mr Sutare has suggested that the failure on the part of Mr Golkonda to issue a Form AT5 at the commencement of the tenancy has a significance in this application. It does not. An AT5 is intended to give a tenant notice that the tenancy is for a minimum period of 6 months and the landlord will have the right to terminate the tenancy at its wish on giving the requisite notice. The absence of service of an AT5 in this case simply meant the tenancy would have been an Assured Tenancy under the 1988 Act and not a Short Assured Tenancy.

359. An essential part of Mr Sutare's claim was that as Mr Golkonda and his wife were not finally registered on the Landlord Register until 17 September 2018 it would be illegal for Mr Golkonda to rent out the property so even although no rent penalty notice was issued by the local authority there was a breach of contract on the part of Mr Golkonda through misrepresentation.

360. Mr Sutare adopted a similar argument in respect of there being no HMO licence in place during the period that three or more tenants occupied the property. It was his position that he should be entitled to recover all rent paid by him from the date he took occupancy until the date Mrs Golkonda was registered.

361. Mr Sutare did not provide any authority for such claims. Landlord registration is a statutory obligation and in terms of Section 94 of the Anti-Social Behaviour (Scotland) Act 2004 the local authority could have issued a rent



penalty notice on Mr Golkonda for failing to register the property. It did not. The local authority has a discretion in any event. There was a contractual agreement between Mr Sutare and Mr Golkonda to pay rent and he failed to do so. The Tribunal does not find there is any merit in this part of Mr Sutare's argument.

362. The licensing of a property in multiple occupation is a statutory obligation under the Housing (Scotland) Act 2006 if certain conditions apply. Failure to comply with the legislation leaves a landlord open to both civil and criminal sanctions. The suspension of rent is a matter for the local authority. It has a discretion in determining whether or not to impose any such order on a landlord and there are provisions for an appeal against such an order. Contrary to Mr Sutare's submission the Tribunal has no power to substitute its decision for that of the local authority. It cannot find that as Mr Golkonda was operating an HMO without a licence, he was not entitled to collect rent from Mr Sutare. There was a contractual agreement between Mr Sutare and Mr Golkonda to pay rent for the property. The requirement for an HMO licence does not impact on the common law contractual position. In any event the Tribunal was satisfied from the evidence that Mr Sutare only made a single payment of rent on 13 July 2017 in the sum of £360.00 in respect of the rent to 14 August 2017. By 9 February 2018 Mr Sutare was the sole tenant in the property and no HMO licence would have been required.

363. Mr Sutare has claimed a substantial amount for loss of income arising from him remaining in the property when the gas engineer was due to attend including on one occasion on a Sunday as he said he could have been working seven days at that time. The Tribunal found that there were several problems with this head of claim. Firstly, in any claim for damages there is an obligation on the claimant to mitigate their loss. It was apparent from the evidence that Mr Sutare gave no prior indication to Mr Golkonda that he would be charging a day's or even a half day's loss of income for staying off work. Secondly, several of the appointments were made without Mr Golkonda's knowledge or authority. Thirdly there was clear evidence that Mr Sutare did not lose £375.00 per day as he claimed. He said he was paid minimum wage by Strings Consultancy Services Limited who were his employers. Mr Sutare produced no evidence by way of bank statements in his name or payslips in his name to show any loss of wages. His argument was that Strings Consultancy Limited a private company of which he was the sole director and shareholder had lost £375.00 for each day that he took off work from the undisclosed company to whom his services were contracted. His argument was that any loss incurred by Strings Consultancy Services Limited was a personal loss to him. The whole veil of secrecy around the name employer and the impact of a Non-Disclosure Agreement, the redacting of invoices, the reluctance to provide information about the author of the letter from a CA on Strings Consultancy Services headed notepaper probably did not assist Mr Sutare's claim but fundamentally his problem with this head of claim was that Strings Consultancy Services Limited is an entirely separate legal entity from him as a person. Any loss incurred by that company is not a personal loss incurred by him and therefore not one that he can legitimately claim for in this application. A further consideration would be that damages are not taxable and therefore any

payment would be net of tax not gross but as indicated above it appeared that Mr Sutare was only paid minimum wage by Strings Consultancy Services Limited but may have received an annual dividend but no information was provided by him about that. The Tribunal was therefore of the view that no award should be made in respect of loss of income.

364. Mr Sutare claimed that the actions of Mr Golkonda in removing the broadband connection, cancelling gas appointments, making an application to the First-tier Tribunal for access in December 2019 were forms of harassment. Also, other actions such as banging on the door by he believed The Flat company or by letters sent and he said by an abusive phone call from Mr Wilcken added to his distress. Mr Sutare submitted that telling him he would have to pay for an engineer's visit if there was nothing wrong with the gas boiler was a further example of adding to the distress caused as was employing private investigators to make enquiries about him. Mr Sutare submitted that a figure of £20000.00 was appropriate by way of compensation for the emotional distress and inconvenience caused as result of Mr Golkonda's negligence, breach of legal duties and abuse caused by cancelling appointments.

365. The Tribunal has noted that Mr Sutare did not provide any authority for his quantification of his claim under the above heading. In his submission Mr Mathieson made reference to the case of Carol Green v John Alexander Husband Chalmers 2016 S.C.L.R. 413 which in turn refers to Quinn v Monklands District Council 1995 S.C.L.R. 393 and Loudon v Chief Constable of Police Scotland 2014 SLT (Sh Ct) 97. He suggested that whilst the actions complained of either did not happen or could not amount to harassment the awards ranged from £1500.00 to £3000.00.

366. A further claim for compensation was made by Mr Sutare in his written submission as he blamed Mr Golkonda for the behaviour of one of the tenants in the property who he said had attacked him after Mr Sutare had complained about him not adhering to the bathroom schedule. Mr Sutare sought an additional £5000.00 for this.

367. Mr Sutare also claimed a further £10000.00 by way of damages for breach of contract including failing in the performance of his duties and maintaining the property and cleaning it. He also sought three times the amount of Council tax to be paid by him and a further £5000.00 for the additional distress caused by having the Council tax and utilities transferred into his name.

368. Mr Sutare also sought a further £50000.00 for what he described as punitive damages by way of a punishment for what he described as Mr Golkonda being a habitual offender. However, there is no provision within Scots Law to award punitive damages and therefore this was not a head of claim the Tribunal needed to consider.

369. The Tribunal considered carefully whether it could be said that Mr Golkonda had engaged in a course of conduct that might amount to harassment either in terms of the housing legislation or under the Protection from

Harassment Act 1997. It was wrong of Mr Golkonda to serve notice of one week on Mr Sutare following the incident with the other tenant. However, Mr Sutare did not vacate the property and there was no unlawful eviction. Whilst Mr Sutare might have been annoyed at the broadband connection being removed the Tribunal noted that there was no written agreement to say that broadband would be provided and of course Mr Sutare himself had said he intended vacating the property at the beginning of March 2018. The issues around the Gas Safety Certificate seem to the Tribunal fairly clear cut. A Gas safety inspection had been carried out in March 2017. It then transpired that because of the HMO licence application a further certificate was necessary and this was carried out not by Scottish Gas but by another Gas Engineer in August 2018. It was therefore not necessary for Scottish Gas to do another inspection in March 2018 and there was nothing sinister in Mr Golkonda cancelling it. It was perhaps unfortunate that by this time the relationship between the parties had clearly broken down so communication was poor. The Tribunal has no reason to doubt Mr Golkonda when he says he did not have copy of the Gas Safety Certificate instructed by Mr Sutare. What is undoubtedly true is that Mr Sutare had a copy and chose not to provide it to Mr Wilcken when requested to do so and this resulted in the application to the First-tier Tribunal. There may have been banging on Mr Sutare's door but he is unable to produce evidence as to who it was or what the purpose was and indeed if it had anything to do with Mr Golkonda or The Flat Company or any other agent acting on behalf of Mr Golkonda. The Tribunal was aware from the evidence that Sheriff Officers had served papers on Mr Golkonda in both March and May 2018 and they are obliged in terms of the legislation to give six audible knocks. With regards to the accusation by Mr Sutare that he was verbally abused by Mr Wilcken in a telephone call the Tribunal, having considered Mr Wilcken's oral evidence and his written statement and having found him to be both a credible and reliable witness, prefers his recollection of that telephone conversation to that of Mr Sutare. The Tribunal did not consider that there was any substance to Mr Sutare's suggestion that there was a conspiracy on the part of Mr Golkonda and his advisers to concoct a story to try to evict him or that claims for unpaid rent were in fact claims for losses arising from being unable to rent out other rooms in the property. The Tribunal did not consider that the actions of Mr Golkonda or his advisers amounted to a course of conduct that could be considered harassment or indeed likely to cause distress. The Tribunal was also of the view that given the allegations made the level of damages sought of £20000.00 was grossly overstated. Had the Tribunal considered that there had been any merit in Mr Sutare's claim then it was apparent that any award would have been at the very lowest end of the scale.

370. The Tribunal did not hear any substantive evidence as to the nature of the altercation between Mr Sutare and the other tenant other than it was to do with a dispute about the use of the bathroom. It was apparent that Mr Golkonda wished to take action against both who were involved by asking them to leave. The Tribunal did not consider that from the evidence presented at the hearing any blame could be attributed to Mr Golkonda and did not consider there was any merit in this part of Mr Sutare's claim.

371. For the reasons given in the decision in Case reference FTS/HPC/C/18/1997 it did seem to the Tribunal that there would be an element of double accounting if Mr Sutare was expected to pay rent that had previously included Council Tax and in addition pay the Council tax for the period from 20 August 2019 to 14 December 2019 and account was taken of that in that decision. For the reasons given in that decision no account could be taken of any costs incurred by Mr Sutare in respect of utilities as no bills had been issued. For similar reasons it would not be appropriate to deal with this issue in this decision other than to say that as the Tribunal has been satisfied that Mr Sutare has breached an essential condition of his contract by failing to pay rent since July 2017 it is not unreasonable for Mr Golkonda to transfer the utility supplies into Mr Sutare's name.
372. Mr Sutare has in his written submissions referred to the Private Housing (Tenancies) (Scotland) Act 2016. That Act has no relevance to this application. The tenancy was subject to the Housing (Scotland) Act 1988. Mr Sutare has made reference to there not being a rent book but a rent book is only necessary where rent is being paid weekly.
373. Mr Sutare has made allegations against Mr Mathieson and has submitted that the Tribunal should apply sanctions against him. Quite apart from the fact that the Tribunal has no such powers there was nothing in Mr Mathieson's conduct throughout the case that gave the Tribunal cause for concern.
374. The Tribunal has considered both parties submissions on the issue of expenses. This has been a very protracted application due in no small part to Mr Sutare's insistence on querying many of this Tribunal and a previous Tribunal's decisions and taking up significant parts of several days' hearings with applications for late productions to be allowed or for postponements and objections to the Tribunal's conduct of the proceedings. The Tribunal does not consider it can address any of the issues raised in proceedings before a previous Tribunal. That would have been a matter for that Tribunal to determine. With regards to this Tribunal's involvement it is noted that Mr Sutare has provided as documentary evidence of his trip to London that necessitated the postponement of the hearing on 8 October 2019 a receipt from Superdrug in Kilburn London dated 8 October 2019. This was perhaps less convincing than the Tribunal would have wished as it could have been obtained by anyone and sent to Mr Sutare in the post. However, as the Tribunal did not spell out exactly what type of vouching it might require it has accepted it. The Tribunal did however find that throughout this application Mr Sutare's conduct increased the length of time that this application has taken by leading unnecessary evidence, persisting with lines of argument despite being advised that they were likely to be irrelevant, causing delay by seeking to introduce late productions and seeking unnecessary postponements and submitting vast quantities of emails and documents.
375. In considering an application for expenses the Tribunal is required to exercise its discretion not by considering who has won or lost but by considering if one or other party has acted unreasonably in conducting their case. Whilst

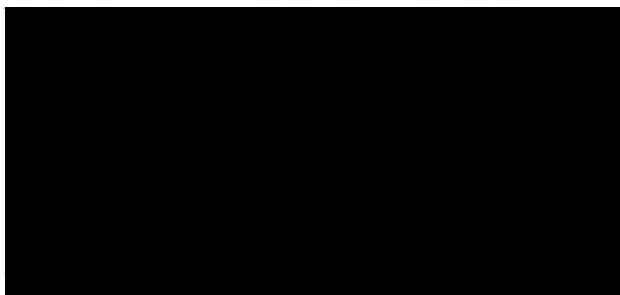
the Tribunal has concluded that some of Mr Sutare's actions have been unreasonable and it does not consider Mr Golkonda to have been unreasonable in his conduct of the case before this Tribunal it would in the Tribunal's view not be reasonable to make an award of expenses against Mr Sutare in respect of the whole application but in order to reflect what it considers to be equitable in all the circumstances will award Mr Golkonda expenses restricted to 25% of the application from 30 July 2019.

#### Decision

376. The Tribunal having carefully considered the oral evidence of the parties and witnesses together with the written submissions and productions finds that the application should be refused. Further finds the Applicant, Mr Pradip Sutare liable to the Respondent, Mr Ramesh Golkonda in the expenses of the proceedings from 30 July 2019 restricted to 25% all as may be taxed by the Auditor of the Court of Session.

#### 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.**



**Graham Harding**  
Legal Member/Chair

**27 January 2020**  
Date