

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/18/0692

Re: Property at 15 Gorse Park, Ayr, KA7 3XW ("the Property")

Parties:

**Miss Emily Hamilton, Mr James Hamilton, 14 Shanter Wynd, Ayr, KA7 4RS; 14
Shanter Wynd, Alloway, Ayrshire, KA7 4RS ("the Applicant")**

**Miss Stefany Lawrie, Mr Justin Taylor, 39 Thistle Walk, Kincaidston, Ayr, KA7
3XH; 2 Kayshill Cottage, Little Mill Road, Drongan, KA6 7EN ("the
Respondents")**

Tribunal Members:

Lesley Dowdalls (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the Respondents are liable to make payment to the
Applicants in the sum of £1008.14, being the total of the sum of £638.10 in
respect of rent arrears and £370.00 in respect of redecoration costs.**

Background

**The Applicants lodged an application dated 22nd March 2018 in terms of Rule
70 of the First-tier Tribunal for Scotland Housing and Property Chamber
(Procedure) Regulations 2017 ("the tribunal rules").**

**Accompanying the application a number of documents were lodged, all as
specified in numbers 1-17 detailed in the Note of Case Management
Discussion dated 31st May 2018, contained within the case papers.**

**The tenancy had ended by mutual agreement on 10th March 2018 and the
Respondents left the property on 12th March 2018.**

Lesley Dowdalls, Legal Member

The Application was amended on 3rd April 2018 at the request of the Applicants to reduce the sum sued for to £1008.14 as a payment of £79.90 had been received in respect of rent arrears.

A case management discussion ("CMD") took place on 31st May 2018. Both Respondents had received service of the application and supporting papers along with notification of the CMD. Certificate of execution by Sheriff Officers dated 3rd May 2018 is within the case papers.

At the CMD on 31st May 2018 Ms Lawrie attended with a young child and was unable to participate in the discussion. She indicated to the clerk that she wished to attend a full hearing. Mr Taylor did not attend or make any written representations.

Following the CMD on 31st May 2018, a full hearing was fixed for 7th August 2018. Both Respondents were notified of the date by Sheriff Officer. Certificate of intimation dated 9th July 2018 is lodged in the tribunal papers.

The Applicants required to seek adjournment of the Hearing of 7th August, and letter intimating same was issued to the Respondents on 11th July 2018. There is no record of these letters being returned to the tribunal. No response to the request was received, and the Hearing was adjourned to 23rd October 2018.

At the full hearing on 23rd October 2018 the tribunal had no evidence that the Respondents had received notification of the hearing date, all as detailed in the CMD note of that date.

Neither Respondent has to date lodged written representations in answer to the application.

Today's Hearing

Sheriff Officers' letter dated 16th November 2018, and contained within the case papers, indicates that today's hearing has been intimated successfully to Ms Lawrie. Service was not successful upon Mr Taylor.

Neither Respondent was in attendance today, nor had submitted any written representations during this process.

The tribunal today had to consider, in the interests of fairness and justice to all the parties, whether the hearing could proceed.

The tribunal considered that Mr Taylor had lodged nothing to indicate that he opposed the granting of the order for payment. He had been properly notified of the application and initial CMD and Hearing of 7th August. He had not attended the CMD or lodged written representations. The tribunal considered this an admission of acceptance of the claim.

Lesley Dowdalls, Legal Member

In respect of Ms Lawrie, she had been properly notified of today's hearing and did not attend. She had been notified that the tribunal can make a decision in her absence.

In the circumstances, the tribunal considered it appropriate to hear the case today and make a decision.

The Decision

The Applicants lodged a full application at the outset with supporting documentation and photographs. They claimed payment in respect of rent arrears and redecoration costs, being matters arising from the lease agreement entered into with the Respondents.

No challenge was made to the information lodged with the application, and the Applicants confirmed today that the tenancy deposit had also been paid to them to reduce the sum outstanding to its current level of £1008.14.

The repairs carried out appeared reasonable and necessary, and justified in terms of the lease and the sum sought in respect of repairs was reasonable.

In all of the circumstances, the tribunal granted the order for payment in the sum of £1008.14.

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.

Lesley Dowdalls, Legal Member

Legal Member/Chair

Date

5th December 2018

*Insert or Delete as required