

**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 the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).**

**Chamber Ref: FTS/HPC/CV/19/0984**

**Re: Property at 14 Cranston Crescent, Lauder, TD2 6UB (“the Property”)**

**Parties:**

**Dr. Mark Worsley residing at the Property (“the Applicant”)**

**Mrs. Rachel Emma Herdman, present address unknown previously residing at the Property (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member)**  
**Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Order for Payment in the sum of £9,225.54 be granted.**

**Background**

By application received on 27 March 2019 (“the Application”), the Applicant made an application to the Tribunal in terms of Section 16 of the 2016 Act and in terms of Rule 70 of the Rules for a payment order for £34,245.28 being rent arrears and damages due and owing by the Respondent to him. A copy of the tenancy agreement between the Parties (“the Lease”), a property condition report by MKT Design (“the MTK Report”), various invoices, copy bank statements and a summary of the sums due and owing were lodged as part of the Application.

1. On 16 April 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 7 June 2019 at 10.00 at Langlee Community Centre, Marigold Drive, Galashiels, TD1 2LP following which CMD a Hearing was ordered and a

Direction for further information made. At the CMD the sum claimed was amended to £40,430.02. The Notes of that CMD are referred to for their terms *brevitatis causa*.

2. A Hearing was fixed for 1 July 2019 and postponed to 1 August 2019 at 10.30 at the said Langlee Community Centre to allow for intimation on the Parties.
3. In advance of the said CMD and in compliance with the Direction, the Applicant lodged written and photographic productions detailing:
  - i) the condition of the Property before the tenancy began and after it ended;
  - ii) receipted invoices for works carried out, moveable items purchased and other out of pocket expenditure;
  - iii) quotes for work required and moveable items purchased to replace items removed by the Respondent;
  - iv) sworn affidavits by Amanda Brown and Keira Richardson testifying to the condition of the Property, and, in particular, confirming from their own knowledge that the Property was in a good condition in 2015 before the Lease began and in a poor condition in March 2019 after the Respondent had vacated the Property.

## Hearing

4. The Hearing took place on 1 August 2019 at 11.00 at the said Langlee Community Centre, the Hearing being delayed as the Tribunal members were late due to public transport difficulties. The Applicant was present together with his wife, Mrs Samantha Worsley. The Tribunal explained the roles open to Mrs. Worsley as an attendee and gave the Applicant and Mrs. Worsley the choice of Mrs Worsley's role being a supporter, a representative or a witness, explaining each role in terms of the Rules and the differences between them. The Applicant and Mrs Worsley advised the Tribunal that Mrs Worsley would be a supporter in terms of Rule 11 of the Rules.
5. By way of introduction, the Applicant explained to the Tribunal that the Property had been his and Mrs Worsley's family home which he intended to sell as he was returning to South Africa. He explained that in 2015 the Respondent had intended to purchase the Property and took residency in the Property pending completion of the sale/purchase transaction, which transaction fell through and resulted in the Parties entering into the Lease. The Applicant maintained that the Respondent had been made aware by him that the Applicant and his family intended to return to the Property as their family home at some point. The Applicant explained that, due to health reasons, he required to return to the United Kingdom at the end of 2018 and so served Notice to Quit on the Respondent on 28 August 2018 requiring her to leave the Property on 1 November 2018. The Respondent did not quit the Property and so recovery of possession proceedings were instigated, resulting in a possession order being granted which terminated the tenancy on 18 March 2019.
6. In response to questions from the Tribunal, the Applicant advised the Tribunal that he did not have a letting agent for the Property and that he did not carry out regular

inspections of the Property or have anyone carry out regular inspections of the Property on his behalf. He explained he felt there had been no need to do this, nor cause for concern. He advised the Tribunal that he was aware of only one repair request made by the Respondent and that was for a fence in 2016. As far as he knew, the Respondent arranged the annual gas and electricity certification at his expense by deducting the cost from the rent payments. The Applicant explained further to the Tribunal that his wife and their solicitor visited the Property on 17 January 2019 and noticed that water was pooling beneath radiators and that the Property was in a poor condition. On 24 and 29 January 2019, Mr M. Thomson of MKT Design called at the Property and carried out an inspection following which MTK Design issued the MTK Report, which report was lodged by the Applicant as part of the Application.

7. The Tribunal noted that the Application set out four broad heads of claim: unpaid rent; the cost of alternative accommodation incurred by the Applicant; compensation and recompense for damage caused by the Respondent and compensation for landlord's fittings and fixtures which had been removed during the tenancy. The Tribunal invited the Applicant to take it through these heads of claim and the sums claimed.
8. With regard to unpaid rent, the Applicant evidenced rent amounting to £1, 721.37 due and owing by the Respondent to the Applicant by reference to the Lease and bank statements which had been lodged. The Applicant confirmed to the Tribunal that the tenancy deposit of £850.00 had not been lodged in an approved scheme as required by Tenancy Deposit Schemes (Scotland) Regulations 2011 and had been offset against the rent due. Therefore, it did not fall to be deducted again.
9. With regard to alternative accommodation from 31 December 2018 to 18 March 2019, the Tribunal explained to the Applicant that the effect of a Notice to Quit is not to terminate a tenancy but to put a tenant on notice. Therefore, as the tenancy did not end until the Possession Order came into effect on 18 March 2019, the Respondent and not the Applicant had exclusive possession of the Property until that date. Accordingly, it was the Tribunal's view that the Respondent could not be held liable for the cost of the Applicant's accommodation from 31 December 2018 to 18 March 2019. The Applicant, having considered the Tribunal's view, agreed to withdraw this part of his claim.
10. With regard to alternative accommodation from 18 March 2019 to 1 June 2019, the Applicant submitted to the Tribunal that the Property was uninhabitable from 18 March 2019 until 1 June 2019 as the water and electricity supplies had to be turned off. The Applicant referred the Tribunal to Clause 8 of the Lease which clause sets out the tenant's obligations and at Clause 8.5 obliges the *tenant* "to immediately notify the landlord or the landlord's agents of any damage or defect to the property or its contents" and submitted that the Respondent's failure to report leaks from the upper parts of the Property to the lower parts of the Property meant that the water damage caused by the leaks was significantly greater than if the leaks had been reported and dealt with timeously. The Applicant's position was that the Respondent had maliciously and knowingly failed to report the leaks and so had intended the

damage to be extensive. The Applicant produced a letter from Scottish Borders Council awarding 50% reduction in council tax because the Property was unfurnished and unoccupied during that time and submitted that this evidenced that the Property was uninhabitable. In any event, the Applicant maintained that he and his family could not occupy the Property whilst the works to repair the water damage were being carried out.

11. With regard to damage caused by the Respondent resulting in dampness to the downstairs TV room/study wall, the kitchen ceiling and the shower room wall, the Applicant referred to the productions lodged by him and, with assistance from his wife, submitted to the Tribunal that the damage to the fabric of the Property was caused as a direct consequence of the Respondent's failure to notify him of the leaking radiators and so the Respondent is liable for the building works required to remedy the dampness which ensued. With reference to the photographic productions lodged by him, the Applicant referred the Tribunal to peeling paint at the kitchen ceiling, dampness on the floor of the downstairs TV room/study and dampness on the wall of the shower room. The Applicant's position was that, if all of these leaks had been reported timeously, he would have had them investigated and repaired and so the extent of the damage would have been minimal. The Applicant submitted to the Tribunal that, in his opinion and that of his contractors, the radiator leaks were caused by deliberate damage by the Respondent, possibly by banging the doors in the Property against the radiator valves, and were not as a result of system failure. The Applicant, again, stressed with reference to Clause 8.5 of the Lease that the Respondent's failure to report the leaks meant that the water damage caused by the leaks was significantly greater than if the leaks had been reported and dealt with timeously and that the Respondent had acted in a deliberate and malicious way, intending the damage to be extensive. With reference to invoices from JS Cranston and A Thomson, the Applicant explained that the leaks from the radiators caused such significant dampness that all of the radiators in the Property had to be removed and an internal wall had to be taken down. In response to questions from the Tribunal, the Applicant did not accept that his contractors' response in carry out works to this extent seemed to be excessive and the Applicant did not accept that the Respondent might not have been aware of the latent damage caused to the underfloor and those parts of the walls concealed by the shower cubicle, tiling and decoration. The Applicant sought the full cost of this reparation work, being £10,569.60 (joinery) and £4,080.00 (plumbing).
12. With regard to damage to the floor coverings, with reference to the productions lodged by him and with assistance from his wife, the Applicant submitted to the Tribunal that the damage to the flooring in lower part of the Property was caused as a direct consequence of the Respondent's failure to notify him of the leaking radiators so that the laminate flooring had to be uplifted and replaced. He submitted that the water damage to the kitchen ceramic floor tiles was such that tiles were broken and, as tiles of the same design are no longer produced, the flooring required to be replaced fully. The Applicant sought £753.91 for this flooring being a proportion of the cost for the laminate flooring for the whole Property. The Applicant submitted that the carpet in the upper part of the house had been badly damaged by heavy soiling with paint, animal faeces and animal urine and was exacerbated by a lack of cleaning

to such an extent that the carpets could not be cleaned and so had to be replaced. The Applicant sought the sum of £4,600.00 being an estimated cost of re-carpeting even though he had chosen to lay laminate flooring.

13. With regard to damage to the internal walls, again, with reference to the productions lodged by him and with assistance from his wife, the Applicant submitted to the Tribunal that the damage to the walls and ceilings throughout the Property was deliberate and malicious. He explained that the walls and ceilings throughout had been drawn on, gouged and had had hooks and nails affixed, the removal of which caused damage. The Applicant sought the sum of £5,290.00 being the cost of redecorating the whole Property even though he had redecorated half of the property to the cost of £2,645.00 to date.
14. With regard to damage to the curtains, again, with reference to the productions lodged by him and with assistance from his wife, the Applicant submitted to the Tribunal that some curtains in the Property had been heavily soiled by animal faeces and urine.
15. With regard to damage to the sanitaryware, again, with reference to the productions lodged by him and with assistance from his wife, the Applicant submitted to the Tribunal that the sink and bath plugs in the Property were badly soiled and had to be replaced at a cost of £24.60 being the sum sought by him. He submitted that a shower tray had been badly damaged and required to be replaced at a cost of £489.00 being the sum sought by him. In addition, he sought £100.00 being the cost to install the new shower tray.
16. With regard to damage to the light fittings and with reference to the productions lodged by him and with assistance from his wife, the Applicant submitted to the Tribunal that all of the thirteen downlights in the Property had been pulled from their fixings or deliberately broken in some way at a cost of £596.00, being the sum sought by him. In addition, light bulbs had to be replaced at a cost of £12.00, being the sum sought by him.
17. With regard to damage to the kitchen appliances, with reference to the productions lodged by him, in particular the photographic productions, and with assistance from his wife, the Applicant submitted to the Tribunal that the freestanding American style fridge freezer had been so badly damaged by the water ingress and lack of cleaning that it required to be replaced. It had been in the house since it was built 10 years ago. Similarly, the oven, hob, washer and dryer all required to be replaced due to both a lack of maintenance and misuse. The costs sought by the Applicant for these items are £1,200.00 for the fridge freezer, although in response to a question from the Tribunal the Applicant said he had already purchased another appliance but did not wish to claim for the sum involved as he sought recovery of the full replacement cost of £1,200.00 for the fridge freezer. The Applicant sought £180.00 for a similar hob although he had paid £499.00 for its replacement. In addition, he sought £200.00 being the cost to disconnect the damaged hob and connect the new hob. He sought £248.98 for a new washer, £259.97 for a new dryer and £780.00 for a new double oven.

18. With regard to the general condition of the Property, the Applicant submitted to the Tribunal that his wife cleaned the Property fully, spending £131.34 on cleaning materials, being the sum sought by him. He refuted the Respondent's agents' claim that she could not clean the Property at the end of the tenancy as she felt intimidated by the Applicant.
19. With regard to damage to the front and back doors, again with reference to the productions lodged by him and with assistance from his wife, the Applicant submitted to the Tribunal that both the front and back doors of the Property and the front-door frame had been damaged to such an extent that they required to be replaced at a cost of £2,712.12 being the sum sought by him. With reference to photographic productions, the Applicant referred the Tribunal to an iron bar which had been affixed to the front door and a wooden panel which had been fitted to the metal rear door to cover the spot from which a dog flap had been removed. With regard to damage to the garage door. Again, with reference to the productions lodged by him and with assistance from his wife, the Applicant submitted to the Tribunal that one of the garage doors had been dented and explained that, due to age, the door could not be repaired. He explained that the cost to purchase two matching doors was £4340 but that one door without a motor could be bought at the price of £1,473.00, which is the sum sought by him, although he has not yet replaced the door.
20. With regard to damage to the external doors including garage doors, with reference to the productions lodged by him, in particular the photographic productions, and with assistance from his wife, the Applicant submitted to the Tribunal that the Respondent had repainted all of the external doors in a bright blue colour which not only was not in keeping with the other neighbouring properties in the development but which caused him and his wife distress and in contravention of Clause 8.10 of the Lease. Two external doors had been replaced and the Applicant had repainted the garage doors in a dark colour to cover the bright blue. The Applicant sought the cost of replacing these doors at
21. With regard to damage to the external summer house which had been natural wood, with reference to the productions lodged by him, in particular the photographic productions, and with assistance from his wife, the Applicant submitted to the Tribunal that the Respondent had repainted the interior of the summer house white, and the exterior in a shade of bright blue which was not to his and his wife's taste and in contravention of Clause 8.10 of the Lease. The cost of repainting was £65.18, which is the sum sought for this item.
22. With regard to garden maintenance, again with reference to the productions lodged by him and with assistance from his wife, the Applicant submitted to the Tribunal that the Respondent had cut climbing ivy causing the upper parts of the plant to die off, and its removal and remedial work on a hedge had cost £160.00. The Applicant sought recompense for this sum.

23. With regard to the general condition of the kitchen units, the Applicant submitted to the Tribunal that, although the whole kitchen had to be replaced, he sought £205.00 for the cost of replacing panels which had been damaged by the Respondent.
24. With reference to the productions lodged by him, in particular the inventory annexed to the Lease, and with assistance from his wife, the Applicant submitted to the Tribunal that the Respondent had removed the following items from the Property and intimated to the Tribunal the following costs to replace these items:
- i) Keys to the Property at a cost of £230.00. The applicant explained that he chose to replace all of the keys for external doors and patio doors on the advice of his insurers;
  - ii) Remote control operators for garage doors at a cost of £62.90;
  - iii) Window blind for one of the bedrooms for which the Applicant had been quoted £119.62 as lowest price;
  - iv) Curtains for the study for which the Applicant had been quoted £60.00;
  - v) Carousel in a kitchen cupboard and kitchen cupboard doors for integral appliances for which the Applicant had estimated accost of £103.00 in total;
  - vi) Picnic table estimated at £200.00 to replace;
  - vii) Garden fencing and gate estimated at £400.00 to replace and
  - viii) Garden shed estimated at £1,600.00 to replace.
25. In addition, the Applicant sought £32.00 to meet the cost of having Scottish Borders Council uplift the detritus left by the Respondent and £82.99 to cover the cost of van hire to deliver the Respondent's belongings to her place of work. The Applicant told the Tribunal that this action had not been sought by the Respondent.

### **Findings in Fact**

26. From the Application, the productions lodged and the Hearing, the Tribunal found that there had been a tenancy by virtue of the Lease between the Applicant and the Respondent until 18 March 2019. The Tribunal found that the Property had been the Applicant's family home and that he and his family had now resumed residing there. The Tribunal found that the Respondent had not paid all of the rent due by her to the termination of the Lease. The Tribunal found that the Respondent had caused damage to the Property and had removed certain of the Applicant's goods and property from the Property.

### **Issues for the Tribunal**

27. The issue for the Tribunal is, having regard to all of the information before it and the balance of probabilities, had the Applicant proved that the whole sum of £40,430.02 is due to him by the Respondent.

### **Decision and reasons for the Decision**

28. With regard to the unpaid rent, the Tribunal accepted that rent amounting to £1,721.37 is due and owing by the Respondent to the Applicant and allowed this part of the claim.

29. With regard to alternative accommodation for the Applicant's family and pets from 31 December 2018 to 18 March 2019, as explained to the Applicant, and as set out in paragraph 9 of this Decision, the Tribunal, took the view that as the Respondent and not the Applicant had exclusive possession of the Property until 18 March 2019, the Respondent had no liability for the cost of the Applicant's accommodation. Accordingly, the Tribunal refused this element of the claim.
30. With regard to alternative accommodation from 18 March 2019 to 1 June 2019, the Tribunal accepted that the Applicant considered the Property to be uninhabitable by him and his family whilst works were being carried. However, the Tribunal, from its own professional knowledge, did not accept that the water and electricity supplies had to be turned off for the whole period of 18 March 2019 until 1 June 2019 and did not accept that the Property could not be lived in by the Applicant and his family for that entire period. The Tribunal had difficulty in accepting the Applicant's position that the Respondent had deliberately damaged the radiators and had knowingly failed to report leaks all with a view to cause the Applicant extra expense and inconvenience when he returned to the Property. The Applicant in his introductory remarks to the Tribunal stated that his return and reason for serving the Notice to Quit had been prompted by his ill-health at the end of 2018. In the Tribunal's opinion, the Respondent could not reasonably have foreseen when the Applicant would return to the Property and so it seemed to the Tribunal unlikely that the Respondent had devised a scheme to damage the Property in which she resided. The Tribunal is of the view that, on the balance of probabilities, the Respondent had not noticed the leaks or had not been aware of the latent effect of them. The Tribunal considered that the letter from Scottish Borders Council awarding 50% reduction in Council tax did not assist the Applicant in proving his case as it simply confirmed that the Property was unfurnished and unoccupied and not that the Property was uninhabitable. The Tribunal took the view that the Applicant's decision to seek temporary accommodation was his alone and could not be tied to an obligation on the Respondent in terms of the Lease. Accordingly, the Tribunal determined that the Applicant had not proved his case to this extent.
31. With regard to the dampness in the Property, the Tribunal accepted that there had been water damage to the Property as a result of the leaking radiators. However, for the reasons outlined in the immediately foregoing paragraph, the Tribunal was of the view that, on the balance of probabilities, the Respondent had not noticed the leaks or had not been aware of the latent effect of them. The Tribunal took the view that the cost of this significant building work could not be tied to an obligation on the Respondent in terms of the Lease as the Clause requiring notification of repairs was too remote to substantiate repairs of this extent. The Tribunal was mindful that it is the landlord's obligation to ensure that the property and its systems and installations are in a reasonable standard of repair throughout a tenancy and that if the Respondent had reported leaking radiators at any point during the tenancy, it would have been the Applicant's responsibility to meet the cost of the repair. The Tribunal is of the view that the Applicant must bear a great degree of responsibility for this particular repair by failing to inspect the Property or having it inspected and by relying on the Respondent as tenant to take on this responsibility. The Tribunal could not reconcile this issue to an obligation on the Respondent in terms of the Lease.



Accordingly, the Tribunal determined that the Applicant had not proved his case to this extent.

32. With regard to the floor coverings, the Tribunal accepted that there had been damage to the carpets by a lack of cleaning and care to such an extent that the carpets had to be replaced. The Tribunal appreciated that the Applicant sought to minimise his losses by apportioning the actual cost of the replacement flooring to those areas of flooring which the Applicant considered he could attribute to the Respondent's negligence in failing to clean as required by Clause 8, and Clause 8.8 in particular, of the Lease. However, the Tribunal could not reconcile this with his claim for compensation of £4,600.00 being an estimated cost of re-carpeting the Property, which he did not require to do as he had chosen to lay laminate flooring. The Tribunal is mindful that in Scots Law on damages there is no right to betterment and that claimants are under a duty to minimise their losses. The Tribunal determined that the Applicant's claim in this respect should be limited to £753.91 being the cost of the relevant proportion of the laminate flooring and the Tribunal's assessment of a reasonable sum for his losses in this regard.
33. With regard to the damage to the walls. The Tribunal accepted that there had been damage to the Property as a result of misuse and mistreatment by the Respondent. However, applying the same tests as outlined in the immediately foregoing paragraph, the Tribunal is of the view that the Applicant's claim in this respect should be limited to £1,000.00 being the Tribunals' assessment of a reasonable sum for his losses in this regard.
34. With regard to the damage to the curtains, the Tribunal accepted that there had been damage to the curtains in the Property as a result of misuse and mistreatment by the Respondent and accepted that the cost incurred in remedying this damage to the Applicant amounted to £238.00 in total, being the cost of dry cleaning at £178.00 and replacing at £60.00, and so accept this part of his claim.
35. With regard to the damage to the sanitaryware. The Tribunal accepted that there had been damage to the sink and bath plugs in the Property as a result of misuse and mistreatment by the Respondent and accepted that the cost incurred in remedying this damage to the Applicant amounted to £24.60 and so accept this part of his claim. With regard to the shower tray, the Tribunal was mindful the shower tray was around 10 years old and so considered that the Applicant's claim for the full replacement costs includes an element of betterment. The Tribunal was of the view that the Applicant's claim in this respect should be limited to £200.00 including fitting costs being the Tribunal's assessment of a reasonable sum for his losses in this regard.
36. With regard to the light fittings, the Tribunal accepted that there had been damage to the light fittings and that there were missing light bulbs in the Property as a result of misuse and mistreatment by the Respondent and accepted that the cost incurred in remedying this damage to the Applicant amounted to £596.00 and replacing the light bulbs amounted to £12.00 and so accept this part of his claim.

37. With regard to the kitchen appliances, the Tribunal accepted that there had been damage to the fridge freezer by the water ingress and lack of cleaning so that it required to be replaced. However, the Tribunal was mindful the fridge freezer was around 10 years old and nearing the end of its likely lifespan and so considered that the Applicant's claim for the full replacement costs, particularly in light of the fact that he does not intend to replace it, includes an element of betterment. The Tribunal is of the view that the Applicant's claim in this respect is not reasonable and so do not accept it. The Tribunal accepted that there had been damage to the hob in the Property as a result of misuse and mistreatment by the Respondent. As the Applicant sought to minimise his claim to £180.00 in respect of the hob, the Tribunal accept this part of his claim. With regard to the replacement costs for the washer, dryer and oven, again the Tribunal was mindful of the age these appliances and so considered that the Applicant's claim for the full replacement costs includes an element of betterment. The Tribunal was of the view that the Applicant's claim in this respect should be limited to £1,498.24 including fitting costs being the Tribunal's assessment of a reasonable sum for his losses in this regard.
38. The Tribunal accepted that the Property required to be deep cleaned and accept that the Applicant spent £131.34 on cleaning materials and so the Tribunal accepts this part of his claim.
39. With regard to the damage to the front and back doors and the distress caused by the painting of these doors, the Tribunal accepted that there had been damage to the both the front and back doors of the Property and the front door frame as a result of misuse and mistreatment by the Respondent and that the Applicant had replaced the items. Again, the Tribunal was mindful of the age of these items and so considered that the Applicant's claim for the full replacement costs includes an element of betterment. The Tribunal is of the view that the Applicant's claim in this respect should be limited to £1,000.00 being the Tribunal's assessment of a reasonable sum for his losses in this regard.
40. With regard to the garage doors, the Tribunal accepted that one of the garage doors had been dented during the tenancy and considered that, on the balance of probabilities, the dent had been as a result of misuse and mistreatment by the Respondent. The Tribunal also accepted that the Respondent had painted the garage doors. However, as the doors had simply been repainted and as the dented door had not been replaced by the Applicant and as there appeared to be no immediate plan to replace it, the Tribunal took the view that the full replacement cost amounted to betterment and so assessed the Applicant's claim in this respect to be £50.00, being a reasonable estimate of the loss.
41. With regard to the painting of the summer house, the Tribunal accepted, that on the balance of probabilities this had been painted by the Respondent and required to be repainted. The Tribunal accept that the cost to the Applicant in materials was £65.18 and so the Tribunal accepts this part of his claim.

42. The Tribunal accepted that work required to be done on the ivy and hedge in the garden at the Property as a result of the Respondent's neglect and accept that the Applicant spent £160.00 on this and so the Tribunal accepts this part of his claim.
43. With regard to the kitchen units, the Tribunal accepted that parts of fitted kitchen had been damaged or removed by the Respondent and assessed £200.00 to be a reasonable estimate of compensation replacing the panels, the doors and the carousel.
44. With reference to the various items which the Applicant submitted were amiss from the Property, the Tribunal accepted that, on the balance of probabilities, the Respondent had removed these items from the Property without the Applicant's authority. The Tribunal noted that the Applicant chose to replace all of the keys to the Property and considered this to be a choice not prompted by the Respondent's misuse or negligence and so refuse this part of the Applicant's claim. The Tribunal noted that Applicant had not replaced the picnic table, garden fencing, gate and garden shed and is of the view that replacement at the costs quoted would include an element of betterment and so considers that £1,200.00 is a reasonable estimate of compensation for this part of the Applicant's claim. The Tribunal noted that Applicant had not replaced the bedroom window blind and the study curtains and so considers that £100.00 is a reasonable estimate of compensation for this part of the Applicant's claim. The Tribunal accepted that the Applicant replaced the remote-control operators for garage doors at a cost of £62.90 and so accepted this part of his claim.
45. The Tribunal accepts that the Applicant required to arrange a local authority uplift at a cost of £32.00 and so accepts this part of his claim. The Tribunal noted that the Applicant chose to hire a van to deliver the Respondent's belongings to her place of work and considered this to be a choice not prompted by the Respondent's misuse or negligence and so refused this part of the Applicant's claim.
46. Accordingly, the Tribunal determined that the Applicant had proved a claim of £9,225.54 as due and owing to him by the Respondent.

### **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.**

Karen Moore

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**Legal Member/Chair**

15 August 2019  
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**Date**

