

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/19/3472

**Re: Property at Woodbine Cottage, 30 York Road, Trinity, Edinburgh, EH5 3EQ
("the Property")**

Parties:

**Mr Calum Mackinnon, 14A Hamilton Place, Aberdeen, AB15 4BH ("the
Applicant")**

**Dr Robin Steedman, c/o Factotum, 63 Dublin Street, Edinburgh, EH3 6NS ("the
Respondent")**

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the application should be decided without a Hearing
and made an Order for Payment by the Respondent to the Applicant of the sum
of £600.**

Background

By application, received by the Tribunal on 30 October 2019, the Applicant sought an Order for Payment to recover the cost of a test to determine whether asbestos flaking on to the cooker in the Property was airborne. A separate test had established that the particles were asbestos. The sum sought was £600.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 21 February 2018 at a rent of £1,095 per month, a Certificate of Identification of Asbestos Fibres issued by Athena Environmental Solutions Ltd dated 12 September 2018 and an Invoice for £600 from ASK Environmental dated 13 September 2018 for an Independent Air Reassurance Test. The Applicant also provided the Tribunal with copies of e-mail exchanges between the Applicant and the Respondent's letting agents, Factotum (Scotland) Ltd, in which the letting agents, on 10 September 2018, copied an email from the

Respondent, authorising the letting agents to go ahead with the proposed further test following on the identification of the particles as being asbestos.

On 19 December 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 9 January 2020. The letting agents, however, advised that they were no longer acting for the Respondent, so the Case Management Discussion was postponed to 27 February 2020 to allow intimation to the Respondent by advertisement on the Tribunal's website. That intimation was advertised on the website between 23 January 2020 and 27 February 2020. No written representations were received from the Respondent.

Case Management Discussion

A Case Management Discussion was held at Riverside House, Gorgie Road, Edinburgh on the morning of 27 February 2020. The Applicant was represented by his mother, Mrs Elizabeth Mackinnon. The Respondent was not present or represented. The Applicant's representative asked the Tribunal to make the Order for Payment without a Hearing.

Reasons for Decision

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

The Tribunal was satisfied from the evidence before it and, in particular, from the letting agents' email of 10 September 2018, that the Respondent had authorised the further test. On the same day, the Applicant had advised the letting agents that he had arranged for someone to come out and on 13 September 2018, the letting agents thanked the Applicant for organising the further test. Accordingly, the Tribunal was satisfied that the Respondent had agreed to meet the cost of the test and that, as he had refused or failed to do so, the Order for Payment sought in the application should be granted.

Decision

The Tribunal determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £600.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

George Clark

Legal Member/Chair

27 February 2020

Date