

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/18/2696

Re: Property at Flat 1/1 14 Sir Michael Street, Greenock, PA15 1PL ("the Property")

Parties:

Mr Robert Cox, Ms Jill Knowles, 11 Magpie Crescent, Inverkip, PA16 0LW; 20 Mansionhouse Gardens, Langside, Glasgow, G41 3DP ("the Applicants")

Miss Siobhan McGarrige, 74 Carwood Street, Greenock, PA15 2EP ("the Respondent")

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the respondent shall make payment to the applicant of the sum of one thousand two hundred and fifty seven pounds and four pence (£1257.04).

This was the first calling of a case management discussion in connection with an application in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, 'the rules' and s16 of the Housing (Scotland) Act 2014, 'the Act' to claim for rent arrears and other losses regarding the property at Flat1/1 14 St Michael Street Greenock PA15 1PL, 'the property'. The application was made by Ms Jill Knowles on 9 October 2018. The second applicant, Mr Robert Cox was added as a party on 14 November 2018. A first CMD scheduled for 10 January 2019 was adjourned to today's date at the respondent's request. The tribunal had before it the following copy documents:

1. Application dated 4 October 2018 and received by the Tribunal administration on 9 October 2018.

2. Land certificate.
3. Tenancy agreement dated 24 July 2013 and 16 June 2014.
4. Exchange of text messages between Ms Knowles and respondent between 30 April 2018 and 31 July 2018.
5. Photographs.
6. Receipt for £37.35 for underlay.
7. Receipt for £5.25 for light switches.
8. Receipt for £134.45 for paint.
9. Receipt for £170 for carpet and laying.
10. Receipt for £24.41 for cleaning materials.
11. Bank statements.
12. Document entitled "Tenancy arrears and costs due from respondent"
13. Email from respondent to Tribunal administration dated 13 December 2018.
14. Tenancy agreement dated 16 June 2013.
15. Further Email from respondent to Tribunal administration dated 13 December 2018.
16. Email from respondent to Tribunal administration dated 14 December 2018 making request for postponement of CMD.
17. Email from respondent to Tribunal administration dated 18 December 2018
18. E Email from respondent to Tribunal administration dated 22 January 2019
19. Email from applicants to Tribunal administration dated 19 December 2018.
20. Email from applicants to Tribunal administration dated 21 January 2019
21. Email from respondent to Tribunal administration dated 18 January 2019
22. Email from respondent to Tribunal administration dated 22 January 2019.
23. Email from respondent to Tribunal administration dated 22 January 2019.

The applicants attended the CMD. The respondent did not attend and was not represented. The tribunal had sight of the sheriff officer's execution of service of the papers on the respondent on 14 January 2019 and was satisfied that the respondent had received appropriate notice in terms of rule 24. Further, the tribunal noted that the respondent had written in to the tribunal with representations in various emails and in her email of 18 January 2019 requested that the tribunal deal with matters in her absence based on the written information she has provided. The tribunal proceeded with the CMD in terms of rule 29 in the absence of the respondent.

Preliminary matter

The tribunal noted that there are two copy tenancy agreements with the papers, one lodged with the application and one produced by the respondent. The agreements have different terms, particularly in relation to the notice period. The agreement lodged by the respondent has a notice period of one month whereas the agreement lodged with the application gives a notice period of two months. Ms Knowles stated that she wishes to rely on the one she lodged. She stated that the agreement lodged by the respondent was replaced by the one she lodged. She stated that the parties agreed to enter into a new agreement and they agreed to the return of the deposit. She stated that the tenant had her deposit of £475 returned in June 2014 and she produced a receipt signed by the respondent to this effect. The tribunal noted that the first tenancy agreement lodged by the applicant appeared to be signed by the tenant on 24 July 2013 but was not signed by the two applicants until 16 June 2014

(which was the date on the deposit receipt). The term of the tenancy in this agreement was however 24 July 2013 until 24 January 2014. Ms Knowles stated that she was requested by her a bank to produce a new signed tenancy agreement and this is why this was prepared. She was unable to explain the discrepancy of the dates. The agreement lodged by the respondent is dated 16 June 2013 and refers to a tenancy term of 24 July 2013 until 24 January 2014. After some discussion it was agreed by the applicants that the first tenancy agreement signed, ie the one produced by the respondent, is the one that would be relied upon. This would therefore reduce their claim regarding the notice period to one month's rent in lieu of notice.

Discussion

The tribunal considered item 12 in some detail and discussed this with the applicants. The tribunal also sought to put the various matters raised by the respondent in her correspondence to them.

Dealing firstly with the arrears, it was clear that the arrears of rent at the point the respondent gave notice on the 31 July 2018 (according to the text messages lodged which have not been disputed by the respondent). The arrears are therefore £475. Secondly, with regard to one month's notice, a further sum of £475 is due. for rent due for August 2018.

Thirdly, the applicants have claimed £170 for the carpet and £37.35 for underlay. The respondent's position is that she agreed with the applicants that she could re carpet and redecorate her daughter's bedroom. The tenancy agreement states that the tenancy undertakes "not to alter, decorate or paint any part of the house without your prior written consent". Ms Knowles stated that she gave verbal consent to the respondent to re carpet and redecorate but this was on the understanding that the room would be reinstated on departure.

The applicants were unable to produce any vouching regarding the £60 for the modifications to the bedroom door so this was deleted from the claim.

The applicants produced vouching in connection with the paint and cleaning materials and for the electrical sockets.

Mr Cox produced the original photographs lodged which tended to show the property required cleaning after the respondent left.

Regarding the paint claimed for, the tribunal noted the point made by the respondent that allowing for fair wear and tear a degree of painting would be required after several years of a tenancy. Mr Cox conceded that the paint claimed for was used for the whole flat but the bedroom which was painted bright pink and was not returned to neutral took three coats of paint. The tribunal deducted one half of the paint costs and allowed £70 under this head.

The tribunal was not prepared to allow the head of claim relating to the applicants labour for redecoration and cleaning. The applicants also conceded that they have now sold the flat and did not replace the sink and bath as originally planned. This was also a matter raised by the respondent so the sum of £135 was deleted from the claim.

Findings in fact

1. The respondent entered into a tenancy agreement with the applicants on 16 June 2013 for the let of the property.
2. The agreed rent was £475 per month.
3. Rent arrears accrued between May 2018 and July 2018 in the sum of £475.
4. The respondent gave notice to end the tenancy agreement on 31 July 2018 and left on that date. A payment of one month's rent is due in lieu of notice of £475.
5. The parties agreed to a modification of one of the bedrooms on condition that it was reinstated at the end of the tenancy. The bedroom was not reinstated. The applicants have incurred costs of redecoration and re carpeting one of the bedrooms of £277.35.
6. The applicants have incurred the cost of cleaning materials and light sockets in the sum of £29.69.

Reasons

The tribunal gave careful consideration to the heads of claim and the documents lodged. The tribunal also took into account the written representations lodged by the respondent. The tribunal was satisfied that it had enough information to make a decision and the procedure has been fair. The applicants have produced vouching and have given oral evidence regarding the agreement they had with the respondent to allow her to redecorate her daughter's bedroom provided this was reinstated at the end of the tenancy. The tribunal accordingly granted an order for the sum of £1257.04.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the

party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

L Ward

31 January 2019

Lesley A Ward Legal Member

Date