



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 70 of the Housing (Scotland)
Act 2016**

Chamber Ref: FTS/HPC/CV/19/2199

Re: Property at 13 New Holygate, Broxburn, EH52 5RN (“the Property”)

Parties:

Mr Brian Riddell, 9 Braidholm Road, Giffnock, Glasgow, G46 6HF (“the Applicant”)

Miss Lorna Lumley, previously residing at 13 New Holygate, Broxburn, EH52 5RN, and whose whereabouts are currently unknown (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment should be made in The sum of One Thousand Nine Hundred and Forty Eight Pounds and One Pence (£1,948.01)

Findings and Reasons

This is an application in which the former landlord seeks a payment order from the former tenant under multiple heads of claim.

The Respondent has not fully engaged and has not formally defended the proceedings. She accepts that some sums are due. She has vouched her current financial position and offered to pay at £10 a month but not made any formal time to pay application.

At a previous CMD concerns were raised about some of the sums sought by the Applicant. Some relate to expenses which any commercial landlord would

be expected to incur upon a tenant leaving. Unusually a significant sum is sought regarding damp proof works. It seems very unlikely indeed that such work was required as a consequence of the tenants actions.

The rent arrears (reduced following return of the deposit from Safe Deposits Scotland) amount to £1,498.01. The Applicant is entitled to recover this sum.

The tenant did leave the property in a poor state on departure. Substantial cleaning and removal of rubbish was required. There were a number of minor type repairs required beyond those which may be expected as a result of fair wear and tear. It is acknowledged that the tenant was in occupation for some 8 years. It would reasonably be expected that removal of the rubbish and other items and unexpected cleaning would incur a cost of £200. The Applicant is entitled to recover this sum. It is reasonable that a further sum be recovered in respect of unexpected breakages and other repairs. A further sum of £250 is reasonable for the Applicant to recover.

The Tribunal relied upon the documentary evidence and in particular the photographs available in the bundle.

The total amount reasonably recoverable is the arrears of rent, removal and cleaning charges and repair costs. These total £1,948.01.

It is not reasonable that the Applicant recover the other sums sought. A total of £4,748.52 was claimed. The Applicants agent accepted that there were difficulties with some of the heads of claim and took telephone instructions from the Applicant to voluntarily reduce the sum sued for to that which the Tribunal was prepared to make an Order for.

It is very unlikely that the Applicant will recover the sum awarded anyway. The whereabouts of the Respondent are unknown. She is signed off work ill and is in receipt of only £238 Universal Credit monthly which is evidenced.

Whilst the Respondent has offered informally £10 a month no time to pay application has been made. Even if it were the offer is unreasonable given the length of time it would take to satisfy the Order. An open enforceable Order is appropriate.

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.



Legal Member/Chair

22 November 2019

Date