

First-tier Tribunal for Scotland (Housing and Property Chamber)

Decision: section 43 of the Tribunals (Scotland) Act 2014 and Regulation 39 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/CV/19/1439

Re: Property at 30 Armadale Road, Whitburn, EH47 0EX (“the Property”)

Parties:

Mr Richard Jolliffe, 31 GogarLoch Skye, Edinburgh, EH12 9JD (“the Applicant”)

Miss Lynn Kilgallon, 8 Kirk Brae, Longridge, Bathgate, EH47 8AH (“the Respondent”)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) considered the application for review submitted by the Applicant and determined that it should exercise its discretion to review the decision made by it and dated 8 July 2019 together with the Order for Payment of the same date.

Tribunal Members:

Fiona Watson (Legal Member)

Background

1. An application dated 10 May 2019 was submitted to the Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to rent arrears, damages and cleaning costs incurred under a short assured tenancy agreement.
2. A Case Management Discussion took place on 8 July 2019. The Applicant was represented by his letting agent, Diane Graham of Lothian Homes 4 Let. There was no appearance by or on behalf of the Respondent.
3. The Applicant’s representative moved for the order for payment to be granted as sought, in the total sum of £1868.26. The parties had entered into a Short Assured Tenancy Agreement. The Respondent was no longer residing in the Property. The Respondent had failed to make payment of rent and had fallen into arrears amounting to £769.26 at her termination of tenancy. Further, at termination of the tenancy various works were required to be carried out the property due to the Respondent’s use of same : handyman services (£585); cleaning (£20), supply and fit of a new shower (£324); connecting electrics to new shower (£35); fitting of a new hallway carpet (£105) and tracing the Respondent to her new address (£30).

4. A rent statement together with invoices covering the various works had been lodged with the application, under exception of an invoice to verify the cost of £585 for the handyman services. The Applicant's Representative was unable to produce a further copy of this from her file to evidence what was instructed and the cost incurred for same.
5. The Tribunal found that they were not satisfied that the Applicant was entitled to the total sum as sought in the Application as no invoice was lodged with the application to satisfy the Tribunal that the £585 claimed in respect of handyman services was lawfully due.
6. However, the Tribunal was satisfied that the Respondent was obliged to make payment of rent in the sum of £500 per month and that the costs incurred in respect of the cleaning (£20), supply and fit of a new shower (£324); connecting electrics to new shower (£35); fitting of a new hallway carpet (£105) and tracing the Respondent to her new address (£30) were due to be paid by the Respondent to the Applicant. Accordingly, the Tribunal found that the Applicant was entitled to the Order for Payment in the reduced sum of £1,283.26.

Application for Review

7. On 10 July 2019 the Applicant's representative submitted a review request by email to the Tribunal, advising that the relevant invoice in the sum of £585 for handyman services which had been missing from the Tribunal's papers had indeed been submitted alongside their application.
8. Following investigation, it came to the Tribunals' attention that the missing invoice had indeed been provided by the Applicant, but that this information had not been made available to the Tribunal when the said decision had been issued.

Findings

9. The Tribunal considered matters in terms of the provisions of Section 43 of the Tribunals (Scotland) Act 2014 and Rule 39 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Tribunal determined that the decision to reduce the level of payment order granted in the Applicant's favour was made erroneously, and that in light of the said invoice it was satisfied that the Order for Payment should be granted in the full amount of £1868.26 as sought.

Fiona Watson

16 July 2019

Legal Member/Chair

Date