



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/20/1746**

**Re: Property at 6 Burnside Gardens, Kirkcudbright, DG6 4JY (“the Property”)**

**Parties:**

**The Isle Trust, St Marys Isle Estate Office, Banks House, Kirkcudbright, DG6 4XF (“the Applicant”)**

**Mr Stewart Drysdale, Mrs Lynne Drysdale, 27 Victoria Park, Kirkcudbright, DG6 4EN (“the Respondents”)**

**Tribunal Members:**

**Jim Bauld (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision (in absence of the Respondents  
)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order should be granted for payment in the sum of NINE HUNDRED AND NINETY SEVEN POUNDS AND SEVEN PENCE (£997.07)**

**Background**

1. By application dated 12 August 2020, the applicant sought an order under section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 6 October 2020, the application was accepted by the Tribunal and referred for determination by the tribunal

3. A Case Management Discussion (CMD) took place on 20 November 2020 via telephone case conference. The applicant was represented by Sir David Hope-Dunbar. The Respondents did not attend and were not represented.
4. At the conclusion of the case management discussion the tribunal issued a decision granting a payment order in favour of the applicant.
5. By email dated 2 December 2020, the respondents requested that the tribunal recall its decision. That request was made in terms of rule 30 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the procedure rules")
6. By decision dated 11 December 2020, the tribunal recalled the payment order and decided to remit this application to a further case management discussion.
7. A further CMD was fixed to take place on 19 February 2021 at 10.00 a.m. and intimation of that CMD was sent to the parties.
8. The further Case Management Discussion (CMD) took place on 19 February 2021 via telephone case conference. The applicant was again represented by Sir David Hope-Dunbar. The second named respondent, Mrs Lyne Drysdale was present at the CMD and represented the respondents.
9. The claim by the applicant consisted of five separate elements.
10. Firstly, rent arrears had accrued at the end of tenancy amounting to £972.00.
11. The applicant claimed to have incurred further costs after the conclusion of the tenancy. These costs were set out in four further elements, namely
  - the removal of rubbish from the property (£95),
  - the cleaning of the property (£310.07),
  - payments to reinstate the utility supplies of gas and electricity (£50)
  - redecoration of a bedroom (£110).
12. The sum claimed in respect of all five elements amounted in total to £1437.07.
13. The applicant had recovered the sum of £540 from the tenancy deposit paid by the respondent which had been deducted from the total sums thus leaving the claimed balance of £997.07.
14. During the further CMD on 19 February, the second named respondent conceded that the parts of the claim relating to rent arrears and redecoration were due and payable.
15. It was noted that there were now only three elements which were in dispute, namely the restoration of the utility supplies, the removal of rubbish and the cleaning. The sums involved amounted to £455.07.

16. The tribunal then enquired of the parties whether it was possible for them to resolve this matter by means of compromise agreement. It was clear to the tribunal that neither party was willing to compromise on the three remaining disputed issues.
17. The tribunal accordingly intimated to the parties that the matter would require to be remitted to a full hearing in order to allow the disputed issues to be resolved. Both parties agreed this was an appropriate course of action to allow the various issues in dispute to be fully resolved.
18. The tribunal decided to fix a full hearing in this matter which will take place on 16 April 2021 at 10 am. Formal intimation of that date was sent to the parties.

### **The hearing**

19. The hearing took place on 16 April 2021 via telephone case conference. The applicant was represented by Sir David Hope-Dunbar. The Respondents did not attend and were not represented. No explanation was provided to explain the non-attendance of the respondents. The hearing proceeded in their absence.
20. The tribunal asked various questions with regard to the application and the documents lodged in support of it. The applicant's representative confirmed that he wished the tribunal to grant the order sought in the application.

### **Findings in fact and law**

21. The Applicant and the Respondents as respectively the landlord and tenants entered into a tenancy of the property which commenced on 20 October 2019.
22. The tenancy was a private residential tenancy in terms of the Act.
23. The agreed monthly rental was £540.
24. The tenancy had ended on 24 June 2020.
25. Rent arrears had accrued at the end of tenancy amounting to £972.00.
26. The applicant had incurred further costs after the conclusion of the tenancy. These costs included the removal of rubbish from the property (£95), the cleaning of the property (£310.07), payments to reinstate the utility supplies of gas and electricity (£50) and redecoration of a bedroom (£110). These costs amounted in total to £565.07.
27. The applicant had recovered the sum of £540 from the tenancy deposit paid by the respondent.
28. Appropriate accounting had been provided for all sums claimed with the application to the tribunal.

29. The respondents are accordingly liable to pay to the applicant the sum of £997.07 in respect of rent arrears and sundry costs

### **Summary of Discussion**

30. With regard to the claim for the payment to reinstate the utility supplies, the applicant's representative indicated that shortly after the cleaner had attended at the property on 26 June 2020 that the power had stopped and that he had required to attend at a local shop to obtain a top up card to allow power to be restored. It was his position that the meter was not in credit at that date but was running on an emergency debit. The payments which he had made were the minimum amounts required to cover the debit balance on the meter and to allow the system to restart and provide power. Clause 17 of the tenancy agreement between the parties allowed the landlord to deduct any sums due in respect of utility supplies at the end of the tenancy from the deposit paid by the tenant

31. With regard to the rubbish which had been removed, the applicant's representative's position was that he had taken the items which have been left at the property and had re-delivered them to the respondents at their new address. It was his view that he could not dispose of them as they were items which clearly belonged to the respondent. Accordingly he had returned them to the respondents at their new address. The amounts charged in respect of time, labour and transport were reasonable

32. The final element which was still in dispute was the cleaning invoice. It was the applicant's representative's position that the cleaning carried out after the respondent had left was entirely necessary. He made reference to photographs which he had lodged with the application. He referred in particular to photographs showing the kitchen unit under the sink and the toilet. It was his position that these photographs demonstrated that the property had not been left in a sufficiently clean condition. He also noted that this cleaning took place during the ongoing Covid pandemic with heightened requirement for cleaning. It was his position that he would not have paid for the services of the cleaner if the cleaning had been unnecessary. The cost charged by the cleaner were reasonable. Clause 16 of the tenancy agreement between the parties allowed the landlord to apply for costs involved in cleaning found necessary to be deducted from the deposit paid by the tenant which sum is not limited to the amount of the deposit actually held.,

### **Reasons for Decision**

33. The tribunal accepted the evidence, both oral and documentary, of the applicant regarding the outstanding sums. The tribunal noted that the

respondents had failed to engage with the applicant after the conclusion of the tenancy. The respondent had also failed to fully engage with the tribunal despite having ample opportunity to do so. They failed to attend the hearing despite having appropriate intimation of same. Their written representations were considered by the tribunal but the tribunal preferred the evidence produced by the applicant

## **Decision**

The order for payment of the sum of £997.07 is granted

## **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.**

**Jim Bauld**

**Legal Member/Chair**

**Date: 16/04/2021**