

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/18/0934**

**Re: Property at G/R, 351 Clepington Road, Dundee, DD3 8AY (“the Property”)**

**Parties:**

**Lara Lettings Ltd, Bank House, Stirling Street, Dundee, DD3 6PJ (“the Applicant”)**

**Mr James McCluskey, Ms Charlene Barrowman, 12E Lawton Terrace, Dundee, DD3 6ET (“the Respondents”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment from the Respondents in the sum of £1556.45.**

**Background**

1. By application dated 17 April 2018 the Applicant applied to the Tribunal for an order for payment in respect of rent arrears said to be due by the Respondents in the sum of £1556.45 together with a further payment of £950.00 in respect of further rent that might become due in the event of the Respondents not removing from the property on expiry of a Notice to Quit.
2. By Notice of Acceptance dated 25 April 2018 a legal member of the Tribunal accepted the application.
3. A Case Management Discussion was assigned to take place on 17 August 2018 at Dundee Carers Centre, 132-134 Seagate Dundee. Intimation was given to the Applicant by post and to the Respondents by Sheriff Officers on 19 July 2018.

4. By letter dated 12 July and received by the Tribunal on 17 July the Applicant sought to claim a further £160.00 in respect of deep cleaning of the property after the Respondents had left the property.

### **Case Management Discussion**

5. The case Management discussion was attended by Mr Alec Campbell on behalf of the Applicant and by the Respondents.
6. The Tribunal queried when the tenancy commenced as this was not clear from the copy agreement lodged by the Applicant and because according to the schedule of rent payments due and made it appeared to commence on 31 March 2017. Mr Campbell produced a copy of the first page of the agreement that had been missing from the papers which confirmed the tenancy commenced on 1 March 2017. The Respondents also confirmed that was the date of commencement of the tenancy.
7. The Respondents accepted that the rent arrears of £1556.45 said to be due by them was correct. They were not disputing the amount. The Respondents said that they had withheld rent because they had concerns about repairs not being done to the property despite repeated requests and because they had never been provided with a gas safety certificate. They had problems with the gas flue and with heating the property. The gas boiler had blown up and they had used one month's rent to pay to have it repaired. The Respondents acknowledged that the amount they had paid for this (£453.55) had been credited to their rent account.
8. The Respondents said that they had attempted to reach an agreement with the Applicant to pay the arrears at the rate of £100.00 per month but had been unable to adhere to the agreement due to their other financial commitments. They remained willing to pay an amount each month that they could afford.
9. Mr Campbell for the Applicant confirmed that as the Respondents had vacated the property on expiry of the Notice to Quit he wished to withdraw the claim for additional rent of £950.00.
10. The Respondents said that they had no notice prior to the Case Management Discussion of the additional sum being sought by the Applicant for the cleaning of the property. The Respondents said they had left the property in a clean state other than the mould on the wall that they had been complaining about during the tenancy.
11. Mr Campbell indicated that he would be prepared to withdraw the claim for the cleaning if the Tribunal granted the order in respect of the rent arrears. The Respondent accepted that an order for the arrears could be granted on that basis.

### **Findings in Fact**

12. The Respondents' tenancy of the property commenced on 1 March 2017.
13. As at 1 April 2018 the Respondents owed rent of £1556.45.
14. The Respondents had withheld some rent during the course of the tenancy because of concerns they had regarding the lack of a gas safety certificate.
15. The Respondents had financial difficulties that resulted in them falling into arrears with their rent.
16. The Respondents vacated the property on expiry of a Notice to Quit.
17. The Respondents had no advance notice of the Applicant instructing additional cleaning of the property.

### **Reasons for Decision**

18. It was a matter of agreement between the parties that the Respondents were in arrears of rent in the sum of £1556.45. Although the Respondents may have had legitimate concerns about the Applicant's failure to deal with their complaints during the course of the tenancy the Respondents had not made any application themselves to the Housing and Property Chamber for any remedies that may have been open to them at that time. Furthermore they had attempted to enter into an agreement to pay off the arrears by instalments but had been unable to maintain the payments.
19. As the Respondents had moved out of the property on expiry of the Notice to Quit the Applicant was not insisting on the claim for additional rent.
20. The claim for deep cleaning of the property did not form part of the application and had not been intimated to the Respondents in advance of the Case Management Discussion. Had the Applicant not been prepared to withdraw it the Tribunal would have had to continue the Case Management Discussion or fix a hearing to allow the parties to argue their position with regards to this part of the claim. Both sides were prepared to agree that an order for payment of the arrears of rent of £1556.45 be granted.

### **Decision**

21. The Tribunal finds the Applicant entitled to an order for payment from the Respondents in the sum of £1556.45.

### **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.

Graham Harding

Legal Member/Chair

Date

17 August 2018