



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/20/2480**

**Re: Property at 54 Glenriddet Avenue, Kilbirnie, Ayrshire, KA25 6LL (“the Property”)**

**Parties:**

**Darcie Developments, 28-30 North Street, Dalry, Ayrshire, KA24 5DW (“the Applicant”)**

**Ms Isabella Stewart, 63 Newhouse Drive, Kilbirnie, Ayrshire, KA25 6EP (“the Respondent”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of One Thousand One Hundred and Thirty One Pounds and Seventy Pence ( £1131.70 ) be made in favour of the Applicant and against the Respondent.**

**Background**

1. This is an application for a payment order which was lodged with the First-Tier Tribunal on 27 November 2020. The application was accepted by the Tribunal on 10 December 2020 and a case management discussion was assigned for 5 February 2021 at 11:30 AM to take place by teleconference call.

## Case Management Discussion

2. The case management discussion was attended by Mr Derek Clarkson, a director of Darcie Developments. There was no appearance by or on behalf of the Respondent Ms Isabella Stewart. Mr Clarkson requested that the Tribunal proceed in her absence. Mr Clarkson advised the Tribunal that his daughter had met the Respondent in a supermarket and she had indicated that she would not be attending the case management discussion. The Tribunal also noted that amongst the papers was an execution of service of the application and documentation for the case management discussion, all of which had been served on the Respondent personally on 16 December 2020. In these circumstances the Tribunal was satisfied that reasonable notice of the case management discussion had been given to the Respondent in terms of the rules of procedure and it was therefore appropriate to proceed in her absence.

3. At the case management discussion the Tribunal had sight of the application, a tenancy agreement, a schedule of rent arrears, a summary of costs, a page of receipts, a bank transaction note and two pages of photographs. The Tribunal noted that the application had been lodged in terms of Rule 70 which relates to an assured tenancy but that the tenancy in question was a private residential tenancy. Mr Clarkson moved the Tribunal to amend the application to reflect that it was an Application in terms of Rule 111 of the Tribunal rules. The Tribunal considered whether this amendment should be permitted in the absence of intimation to the Respondent. The Tribunal took the view that the amendment should be permitted given that the entire application and supporting paperwork had been served on the Respondent who would have been in no doubt as to the basis on which the payment order was being sought. The only error in the form had been the number of the rule under which the Applicant was proceeding. The amendment was permitted and Mr Clarkson lodged with the Tribunal on 5 February 2021 an amended page 3 of the application referring to Rule 111.

4. Mr Clarkson explained to the Tribunal that the parties had entered into a tenancy agreement at the property, a 2 bedroom quarter villa, with effect from 30 September 2019 with a monthly rent in the sum of £475. The costs he was seeking related to outstanding rent and costs which she said were incurred after the Respondent left the property at the end of August 2020 without notice. These costs related to decoration, paint and materials, cleaning, rubbish removal, a new door, changing of locks and fixing of a cabinet, a new carpet, and a call out charge for a plumber.

5. Mr Clarkson advised the Tribunal that rent arrears at the property started to accrue in December 2019. The Respondent paid the rent by means of benefit payment which appeared initially to be made to her directly. Early in 2020 Mr Clarkson applied to have universal credit payments made to him directly in relation to the rent. The amount of universal credit determined to be payable each month towards the rent for the property at that time was £425 per month. The Respondent was required to pay the remaining rent of £50 per month, not covered by benefit. From March 2020 until the end of August 2020 the Applicant received rent payments direct from universal credit but nothing from the Respondent. As at the end of August 2020 the rent arrears had amounted to £775 but the tenancy deposit which had been paid by the Respondent was retrieved from a tenancy deposit scheme and put towards the outstanding rent, which meant

that the total arrears were £300 . Mr Clarkson indicated that the Respondent had been asked by him on a number of occasions in relation to the outstanding rent and that promises had been made by her in terms of repayment but no monies had been received.

6. Mr Clarkson explained that when the Respondent left the property it had been left in what he described as a filthy condition. The property required to be redecorated which involved painting and wallpapering. He pointed to one of the photographs he had lodged which showed that some wallpaper was no longer on the walls. He indicated that wallpaper was ripped in some of the rooms. Whilst the Respondent was in occupation at the property some of the walls had been painted but this had not been done properly and he said it required to be repainted after she vacated the property in order to return it to the condition it had been in when she took up occupation and to allow it to be rented out again.

7.The Applicant advised that cleaning costs had been incurred in particular for the kitchen and a receipt had been lodged from a cleaning company. Mr Clarkson advised that he had had to buy cleaning materials and rubber gloves and that two of the copy receipts lodged related to these costs. He had also lodged a receipt for paint and wallpaper adhesive.

8. Mr Clarkson indicated that when the Respondent vacated the property it had been left full of what he described as rubbish. He indicated that food had also been left in the kitchen. He had telephoned the Respondent and given her forty eight hours to return the key to the property and to take her belongings. He been advised by her that the key to the property had been lost and the Respondent did not attend to remove any belongings. Mr Clarkson had removed all the items from the property and had engaged a local refuse removal company to uplift the rubbish. This was done using a lorry and they had taken the items to an approved refuse disposal site. He said this had cost him £250 and he had paid for this service in cash and referred to the Royal Bank of Scotland transaction printout dated 17 September 2020 which had been lodged. The Tribunal noted there was no breakdown of this cost nor was there any receipt lodged.

9. The Applicant was also claiming for a new carpet at the property. Mr Clarkson advised that there had been a new carpet in one of the rooms at the beginning of the tenancy but that the Respondent appeared to have put down an old one instead of the original new carpet. At the end of the tenancy there was no trace of the original new carpet and Mr Clarkson indicated that this had had to be replaced. He said this had been a cash transaction with a carpet fitter and this was in the sum of £350 so there was no receipt for this transaction indicating labour or material cost.

10.The Applicant was also claiming the costs for a new door, the cost of changing the locks as the key to the property had not been returned by the Respondent and to fix a cabinet which had been broken. Mr Clarkson pointed to the photographs lodged by the Applicant. One of these showed a door which clearly had some damage to it and a cabinet which appeared to have the front removed from it. There was no receipt or any other cost breakdown supplied in respect of these costs which were said to be a cash transaction.

11. The Tribunal chair explained to Mr Clarkson that it required more information to determine the costs for which no receipts had been lodged and whether these were reasonable. The Tribunal asked Mr Clarkson if he could obtain handwritten receipts for the sums which he said he had paid in cash, together with perhaps a breakdown of the costs for material and labour. After some discussion Mr Clarkson indicated that he did not wish the opportunity to do that as he thought it would be difficult to obtain more evidence than he had presented and did not wish to delay matters further. He indicated that he was content for the Tribunal to proceed on the basis of the costs for which evidence had been lodged.

12. The Tribunal was of the view that the proceedings had been fair and it was in a position to make a decision on the basis of the information before it at the case management discussion and in the light of the Applicant's indication that he did not wish time to obtain further receipts.

13. The Tribunal made a payment order in the sum of £1131.70 only in respect of outstanding rent, costs for decoration of the property, paint and materials and costs for cleaning. No award was made in respect of costs outlined for rubbish removal, a new door, changing of locks, fixing a cabinet, a new carpet, and a callout charge for a plumber.

## **Findings in Fact**

14. The Applicant and Respondent entered into a tenancy agreement at the property with effect from 30 September 2019.

15. The monthly rent payable at the property was £475.

16. Initially the rent was payable by the Respondent by means of benefit payments. With effect from March 2020 the Applicant applied for and was paid the benefit payment directly towards the rent. The monthly payment made by way of benefit at this stage was £425 and the Respondent was required to pay the shortfall each month that was not met by benefit payment, some £50 per month.

17. Rent arrears continue to accrue throughout the rest of the tenancy until the Respondent left the property without giving notice at the end of August 2020.

18. Total rent arrears at the property which were accrued were £775 but the deposit paid by the Respondent was retrieved and set against this which meant that the rent arrears outstanding are in the sum of £300.

19. When the Respondent left the property it was not clean and required to be cleaned which was done by a cleaning company at a cost of £145.99 which included cleaning materials.

20. When the Respondent left the property it required repainting and wallpapering as some wallpaper was missing from some of the walls and walls had been painted

during the tenancy but this had not been done properly. The cost of the painting and wallpapering including materials was £685.71.

21. The Respondent was spoken to after she left the property regarding the condition of the property and outstanding rent but the Applicant has received no money in relation to the costs incurred.

22. The sum of £1131.70 is lawfully due to the Applicant by the Respondent.

### **Reasons for Decision**

23. The Tribunal was satisfied it was appropriate to make a payment order in respect of the costs for which vouching had been produced. These costs appeared reasonable and the Applicant was entitled to seek these costs in terms of clauses 1 and 5 of the tenancy agreement. No order was made in respect of costs for which no receipts had been lodged as the Tribunal took the view it could not determine whether these were reasonable without further information and the Applicant ultimately did not wish to try to obtain this information.

### **Decision**

24. The Tribunal made a payment order in the sum of One Thousand One Hundred and Thirty One Pounds and Seventy Pence ( £1131.70 ) in favour of the Applicant and against the Respondent.

### **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.**

**V Bremner**

**5 February 2021**

---

**Legal Member/Chair**

---

**Date**