

# Housing and Property Chamber

## First-tier Tribunal for Scotland



**Decision:** Housing (Scotland) Act 1988 Section 24(1)

**Chamber Ref:** FTS/HPC/RT/19/2764

**Title no/Sasines Description:** WLN6357

**Property Address:** 26 Drumacre Road, Bo'ness EH51 9QR ("the house")

**The Parties:** Falkirk Council ("the Third Party Applicant")

Miss Lea Allan ("the Tenant")

Mrs Doreen Tranent ("the Landlord")

### **Tribunal Members:**

Mark Thorley (Legal Member)

Sara Hesp (Ordinary Member)

### **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, determined that the landlord has failed to comply with the duties imposed by Section 14(1)(b) of the said Act.

### **Background**

1. By application dated 5 September 2019 and received by the Tribunal on the same date, third party applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for a determination of whether the landlord failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006.
2. The application stated that the third party applicant considered that the landlord had failed to comply with the duty to ensure that the property meets the repairing standard and in particular that the landlord has failed to:
  - (i) Inspect or repair kitchen floor – water penetration from possible leak, floor has mould including mushrooms;
  - (ii) Inspect, repair or replace kitchen door, not wind and watertight;
  - (iii) Complete repair to front door evidence of possible further water penetration;

- (iv) Window in second bedroom to be inspected and repaired – water penetration when raining;
- (v) Floorboards in bathroom to be inspected – specifically around the toilet are squeaking;
- (vi) Broken spindle on staircase to be repaired or replaced;
- (vii) Socket in livingroom to be investigated as appears to have melted;
- (viii) Provide Electrical Installation Condition Report (EICR) and Energy Performance Certificate (EPC);
- (ix) Provide Gas Safety Certificate.

Accompanying the application were copies of correspondence sent to the agent and landlord and acknowledgement of a receipt of the intimation.

3. On 9 September 2019 the Convenor of the Tribunal with dedicated powers under Section 23A of the Act intimated the decision to refer the application under Section 23(1) of the Act to the Tribunal for determination.
4. The Tribunal served a notice of referral under and in terms of Schedule 2, paragraph 1 of the Act upon the landlord and the landlord's agent on 25 September 2019. An inspection of the house and hearing were fixed for 7 November 2019.
5. Following service of the notices no representation were received.

### **The Inspection**

1. The Tribunal inspected the property on the morning of 7 November 2019. The weather was raining heavily.
2. The property is an end terraced dwelling with a ground and first floor. The property comprises livingroom, kitchen, two bedrooms and bathroom.
3. The tenant was present along with the third party applicant representative Miss Smith. The landlord did not attend but representing the landlord was a Mr Jones, a builder from E Jones. Photographs were taken and are attached as a schedule to this decision.

### **The Hearing**

1. Following inspection of the property the Tribunal held a hearing at Westfield Community Centre, Westfield Street, Falkirk. The tenant was present and the third party applicant was represented by Ms K Smith. Mr Jones attended on behalf of the landlord.
2. The Tribunal considered the issues in the following order:
  - (i) Inspect or repair kitchen floor – water penetration from possible leak, floor has mould including mushrooms.

It was noted at the time of the inspection that the floor in the kitchen had been taken up. The water penetration appeared to have derived from a radiator in the kitchen. That has been repaired. The floor in the kitchen has not been replaced. That apparently is a matter being dealt with under the landlord's home insurance. A period of time was taken for the kitchen to be dried out by use of dehumidifiers. The kitchen has dried out but the flooring has not been replaced.

- (ii) Inspect, repair or replace kitchen door, not wind and watertight.

This has been replaced.

- (iii) Complete repair to front door evidence of possible further water penetration.

The front door's runners appear to have been blocked but these have been cleaned out and the front door appears to be both wind and watertight.

- (iv) Window in second bedroom to be inspected and repaired – water penetration when raining.

Again the runners in the window have been cleaned and the window is working appropriately and there is no further water penetration.

- (v) Floorboards in bathroom to be inspected – specifically around the toilet are squeaking.

The floorboards were inspected and appeared to be in working order.

- (vi) Broken spindle on staircase to be repaired or replaced.

This has been undertaken.

- (vii) Socket in livingroom to be investigated as appears to have melted.

The socket has been replaced. No minor works certificate has been provided as yet regarding the replacement of the socket.

- (viii) Provide Electrical Installation Condition Report (EICR) and Energy Performance Certificate (EPC).

These have been provided.

- (ix) Provide Gas Safety Certificate.

This has been provided.

## Summary of Issues

The issues determine whether the house meets the repairing standard imposed by Section 13 and whether the landlord has complied with the duties imposed by Section 13 and whether the landlord has complied with the duties imposed by Section 14(1)(b).

## Findings in Fact

The Tribunal finds the following facts to be established:-

1. The tenant entered into a private residential tenancy agreement with the landlord with a commencement date of 22 February 2019.
2. The landlord is the registered owner of the property.
3. The third party applicant notified the landlord and the landlord's agent by letter dated 5 August 2019 of all repairs that she has detailed in the application.
4. On inspection the Tribunal were able to confirm that all works had been undertaken to the property aside from the relaying of the kitchen floor.

## Reasons for decision

The Tribunal considered each of the complaints made by the third party applicant and determined as follows:-

1. The water penetration in the kitchen had been dealt with having arisen from a leaking radiator. The kitchen had subsequently been allowed to dry out. The floor had not been relaid.
2. The kitchen door had been replaced and was now wind and watertight.
3. The windows and the front door had been cleaned and there was no evidence of further water penetration.
4. The runners in the window of the second bedroom had been cleaned and there was no further water penetration.
5. There was no outstanding issue with the floorboards in the bathroom.
6. The broken spindle in the staircase had been replaced.
7. The socket in the livingroom had been replaced although no report had been provided as yet regarding it.
8. The Electrical Installation Condition Report (EICR) and Energy Performance Certificate (EPC) have been provided.

9. A Gas Safety Certificate has been provided.

### Decision

1. The Tribunal determined there was a failure to comply with the repairing standard.
2. The Tribunal has determined that the landlord has failed to comply with the duties imposed by Section 14(1)(b) of the said Act in relation to the flooring in the kitchen.
3. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1).
4. The decision of the Tribunal was unanimous.

### Right of Appeal

**A landlord, tenant or third party applicant 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.**

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

M Thorley

Signed

Legal Member

Date

6<sup>th</sup> March 2018

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

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**Schedule of photographs taken on 7 November 2019**



*Photograph 1: Front elevation*

*Photograph 2: Kitchen: replacement back door*



*Photograph 3: Kitchen: floor at back door*



*Photograph 4: Kitchen: radiator*



*Photograph 5: Kitchen: flooring – general view*



*Photograph 6: Living room: replacement double socket*



*Photograph 7: Staircase: broken spindle replaced*



*Photograph 8: Landing: broken spindle replaced*



*Photograph 9: Bathroom: floor around toilet*



*Photographs 10 and 11: Bedroom 2: window*



*Photograph 12: Kitchen: carbon monoxide detector*



*Photograph 13: Kitchen: heat detector*



*Photograph 14: smoke detector*

