

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)

Chamber Ref: FTS/HPC/RT/23/2023

**22 St Mary Street, Peterhead AB42 1TB
("The Property")**

The Parties:-

Aberdeenshire Council, Infrastructure Services (Housing), Gordon house, Blackhall Road, Inverurie, Aberdeenshire AB51 3WA ("the Third Party Applicant")

**Mr Kenneth Alexander & Mrs Beverley Alexander, 22 St Mary Street, Peterhead AB42 1TB
("the Tenant")**

**Mrs Margaret Laurie & Mr Laurie Tinto, 70 Alexander Avenue, Kingseat, Newmacher, Aberdeen AB21 0AS
("the Landlords")**

Tribunal Members

Graham Harding (Legal Member)

Angus Anderson (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 duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the written representations submitted by the Third Party, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 20 June 2023 the Third Party, applied to the Housing and Property Chamber for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").

2. The application stated that the Third Party considered that the Landlord had failed to comply with their duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:-

- (a) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order; and
- (b) The house meets the tolerable standard.

Specifically, the Third Party complained that:-

The Landlords had failed to provide a gas safety certificate when requested.

- 3. By Notice of Acceptance dated 14 July 2023 a legal member of the Housing and Property Chamber with delegated powers accepted the application and referred the application under Section 23 (1) of the Act to a Tribunal.
- 4. The Tribunal served a Notice of Direction on the Landlords on 24 July 2023 requiring them to provide the Tribunal with a valid and compliant Gas Safety Certificate by no later than close of business on 14 August 2023. The Landlords failed to comply with the Direction.
- 5. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlords on 16 August 2023.
- 6. By correspondence received by the Tribunal administration on 30 August 2023 the Landlords advised the Tribunal that they did not intend to submit any written representations or attend a hearing.
- 7. By email dated 30 August 2023 the Third party's representative, Ms Cheryl Greig, submitted further written representations and advised the Tribunal that the Third Party would not be represented at the hearing.
- 8. The Tribunal inspected the Property on the morning of 31 October 2023. The Tenant, Mrs Beverley Alexander was in attendance. The Ordinary Member of the Tribunal took photographs of the property which are attached as a schedule to this decision. The Tribunal noted that the gas boiler located in the kitchen of the property was not in working order. Mrs Alexander told the Tribunal members that the boiler had not been working for over a year. The Tribunal noted that a gas hob was installed in the kitchen and was used by the Tenants. Mrs Alexander was unable to provide the Tribunal with a current Gas Safety Certificate. The Tribunal noted that there was a carbon monoxide

detector located in the kitchen of the property although it appeared to be of some age and was not tested. The Tribunal also noted that there was no heat detector installed in the kitchen.

9. Following the inspection of the Property the Tribunal held a hearing at AB1, Aberdeen. As expected, neither the Landlords or the Third Party were in attendance and the Tribunal being satisfied that proper intimation of the hearing had been given to the parties determined to proceed in their absence.

The Hearing

10. The Tribunal was concerned that despite being served with a Notice of Direction requiring them to produce a valid and compliant Gas Safety Certificate the Landlords had failed to comply and were therefore at risk of being reported to the police.
11. The Tribunal noted from the inspection that the gas boiler at the property was not working and had apparently not been working for a considerable length of time. This meant that in addition to the Tenants relying on oil filled radiators for heating there was no supply of hot water to the kitchen or bathroom sinks although the Tenant said there was an electric shower providing hot water in the bathroom.
12. In the absence of any written representations from the Landlords the Tribunal could only rely upon the written representations from the Third Party setting out their attempts made to engage with the Landlords and the brief comments from Mrs Alexander at the inspection who clearly did not wish to become involved and appeared sympathetic to the Landlords.

Findings in fact

13. Between 11 January and 26 March 2023 the Third Party was in communication with the Landlords attempting to obtain a copy of a current Gas Safety Certificate.
14. By letters dated 3 May 2023 the Third Party complained to the Landlords that the property did not meet the repairing standard.
15. The gas boiler at the property is not in working order and has been in that condition for some time.
16. There is no supply of hot water to the sink at the kitchen.
17. The Landlords have failed to provide the Third Party and the Tribunal with a current Gas Safety Certificate

Reasons for the decision

18. The Tribunal was satisfied from its own observations at the inspection that the property did not meet the tolerable standard as there was not a supply of hot water to the kitchen sink. The gas boiler installed in the property ought to be in a reasonable state of repair and in proper working order and clearly was not. Although the Tenants did not appear to be complaining about the condition of the property it concerned the Tribunal that Tenants were reliant on electric oil filled radiators for heating the property as the gas central heating was inoperative.
19. Despite being given every opportunity since the beginning of this year to provide a Gas Safety Certificate the Landlords have failed to do so. they have even ignored a notice of Direction from the Tribunal.
20. Although not part of the application the Tribunal was concerned that there was no heat detector installed in the kitchen and would certainly expect the Landlords to attend to this omission in the near future.
21. The Tribunal has noted that the Landlords have indicated that it is their intention to "surrender their properties" whatever that may mean. However as long as they remain Landlords they must comply with all relevant legislation.

Decision

22. The Tribunal accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
23. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
24. The decision of the tribunal was unanimous.

Right of Appeal

25. A landlord, tenant or third party aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

Effect of section 63

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

Signed

G Harding Date

6 November 2023

Chairperson