



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

**Statement of Decision of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under section 60(5) of the
Housing (Scotland) Act 2006**

Chamber Ref: FTS/HPC/RP/23/3660

**13 Ann Court, Hamilton, ML3 9HB being the subjects registered in the
Land Register of Scotland under title number LAN72431 ('The Property')**

Debbie Steele ("The former Tenant")

Jordan Bird, Hamilton CAB ('The former Tenant's Representative')

**John Docherty residing at 54 Pine Crescent, Hamilton, ML3 8TZ ("The
Landlord")**

**Tribunal Members – J Taylor (Legal Member) and N Allan
(Ordinary Member)**

1. Background

1.1 The Tenant leased the Property from the Landlord in terms of the Short Assured Tenancy between the parties.

1.2 The Tenant applied to the Tribunal for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ('the Act').

2. Application

The application by the Tenant dated 17th October 2023 stated that she considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. She advised that installations in the Property 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; the fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and proper working order; the furnishings provided by the Landlord under the tenancy are not capable of being used safely for the purpose for which they are designed and the Property does not meet the tolerable standard.

In particular the application stated that the work that needed to be carried out was as follows:

2.1 The kitchen cupboards need to be replaced as they have collapsed.

2.2 There is a live wire in the hall next to the carpet in the hall.

2.3 The plug for the washing machine under the sink needs to be relocated.

2.4 there is cracked flooring under the washing machine and damage arising from this.

2.5 Electrical safety inspection.

2.6 Bedroom floor creaking and possibly caved in with visible dipping in carpet.

3. Notice of Acceptance

On 1st November 2023, Martin McAllister, as Convenor of the First-tier Tribunal (Housing and Property Chamber), signed the Notice of Acceptance which stated that he had considered the application, comprising documents received on 17th October 2023, and he referred the application under Section 22 (1) of the Act to a Tribunal.

4. Minute of Continuation.

The Tribunal received confirmation from the former Tenants' Representative that the tenancy of the house has been terminated, and acknowledged that under Schedule 2 Paragraph 7(1) of the Housing (Scotland) Act 2006 ("The Act"), the former Tenants are to be treated as having withdrawn the application under Section 22(1) of the Act. The Tribunal then considered whether the application should be determined or whether it should be abandoned, all in terms of Schedule 2 Paragraph 7(3) of the Act. The Tribunal, in terms of their decision dated 9th January 2024, determined that as the application detailed matters that are health and safety concerns they would continue to determine the application.

5. Inspection

The Tribunal, attended at the Property at 10.00 am on 31st January 2024.

The Landlord was present at the inspection together with his Letting Agent Graham Whiteford of Loam Property Limited.

The Tenant did not attend the inspection.

The Property is a first floor two bedroom flatted property in a four storey block.

The Tribunal inspected the repairs detailed in the application and found as follows:

5.1 The kitchen cupboards need to be replaced as they have collapsed.

The kitchen cupboards had been recently replaced and were in good order.

5.2 There is a live wire in the hall next to the carpet in the hall.

The wire referred to by the former tenant had been safely rerouted.

5.3 The plug for the washing machine under the sink needs to be relocated.

The plug had been satisfactorily relocated on the rear wall of the kitchen under the worktop.

5.4 There is cracked flooring under the washing machine and damage arising from this.

There was no evidence of cracked flooring under the washing machine.

5.5 Electrical safety inspection.

The Landlord provided a valid EICR certificate dated 27th January 2024 that had been prepared by the SELECT electrician of RS Electrics, Hamilton. The EICR confirmed that the electrical installation within the Property is in a satisfactory condition.

5.6 Bedroom floor creaking and possibly caved in with visible dipping in carpet.

There was no evidence of dipping of the bedroom floor at the inspection.

6.Hearing

This case called for an inperson Hearing at Glasgow Tribunal Centre at 11.45 on 31st January 2024.

The parties did not attend.

7.Decision

7.1 The Tribunal determined:

- (a)The kitchen cupboards, the flooring under the washing machine and the bedroom flooring are in a reasonable state of repair and proper working order.
- (b)The electrical installation within the Property is in a satisfactory condition.
- (c) The Electrical Installation Condition Report is valid.

7.2 The Tribunal accordingly determine that the Landlord has not failed to comply with the duties imposed by Sections 13(1)(c) and 13(1)(d) and 14(1)(b) of the Act, in relation to the matters detailed in the application, for the reasons stated.

7.3 The decision of the Tribunal was unanimous.

8. 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.

Signed

Chairperson

Date: 31st January 2024