

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 24 (1) of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22(1A) of the Act

Chamber Ref: FTS/HPC/RT/23/2735

Re: Property at Flat 0/1, 12, Riccarton Street, Glasgow, G42 7NX registered in the Registers of Scotland under Title Number GLA96564 (“the Property”)

The Parties:

Glasgow City Council, Neighbourhood, Regeneration and Sustainability Services, 231, George Street, Glasgow, G1 1RX (“the Third-party Applicant”)

Mr. James O'Donnell residing at the Property (“the Tenant”)

And

Ms. Subajini Thileepan, residing at 1C, Whitelaw Road, Dunfermline, Fife, KY11 4RN (“the Landlord”)

Tribunal Members:

Karen Moore (Chairperson) and Kingsley Bruce (Ordinary and Surveyor Member)

Decision of the Tribunal

The Tribunal determined that the Landlord has failed to comply with the duty imposed on her by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Section 13(1) (a) and Section 13(1) (d) of the Act.

Background

1. By application received between 10 August 2023 and 11 September 2023 (“the Application”), the Third-party Applicant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on her by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Section 13(1)(a) and Section 13(1) (d) of the Act.
2. The Application noted that the windows throughout the Property are smashed and hinges are broken, that there is damp and mould in the basement area, that there are various issues with white goods in the Property, that the kitchen overflow does

not operate properly, that the cooker switch is broken and the cooker glass plate is broken, that the washing machine does not work, that the front door is fitted badly, that the living room flooring is in poor condition and the living room and kitchen lights are faulty and that the smoke, heat and carbon detectors require to be checked.

3. The Application was referred to the Tribunal. An Inspection of the Property and a Hearing were fixed for 11 January 2024 and intimated to the Parties.

Inspection and Hearing

4. The Inspection of the matters complained of in the Application took place at the Property on 11 January 2024 at 10.00 am. The Third-part Applicant was not present or represented. The Tenant was not present. The Landlord was not present and was not represented.
5. The Tribunal inspected the Property in respect of Section 13(1)(a) and Section 13(1) (d) of the Act and the specific matters complained of in the Application as set out above. A Schedule of Photographs taken at the Inspection was prepared and is annexed hereto.
6. The Hearing took place on 11 January 2024 at 11.45 am at the Glasgow Tribunal Centre. The Third-part Applicant was not present or represented. The Tenant was not present, having advised the Tribunal at the Inspection that he would not be able to attend. The Landlord was not present or represented.

Findings of Fact

7. The Tribunal's findings in fact were made from the Application and the Inspection and following the Hearing:
 - i) The washing machine, as demonstrated by tenant, was not operating.
 - ii) The cooker switch as demonstrated by tenant, was not operating.
 - iii) The glass cooker plate was broken with adhesive tape applied over missing/cracked section of cooker top.
 - iv) The drainage overflow at kitchen sink was not operating properly:
 - v) The windows throughout the Property are defective with broken or unusable hinges;
 - vi) There is broken glazing in the kitchen window;
 - vii) The front door is too small for the opening and there are gaps at the frame and surround;
 - viii) The flooring in the living room flooring has become defective due to heavy wear and delamination.
 - ix) The living room lights do not appear to be working: it is not known if fluorescent tube requires replacement;
 - x) The kitchen lights do not appear to be working: it is not known if the bulbs requires replacement;
 - xi) The Property has inadequate interlinked fire/smoke/heat protection;
 - xii) Basement/cellar which is not part of the habitable accommodation and is accessed by hatch in floor and "ladder has no significant issues evident.

- xiii) No Electrical Installation Condition Certificate or Portable Appliance certificate were available at the Inspection.
8. At the Inspection the Tenant raised issues with the boiler and heating system and the Tribunal noted that the bathroom lights were not working. These do not form part of the Application.

Decision of the Tribunal and reasons for the decision.

9. The Tribunal's decision is based on the Application with supporting documents and the Inspection.
10. In respect of the complaint in terms of Section 13 (1) (a) of the Act that the Landlord has failed to ensure that the Property is wind and watertight and in all other respects reasonably fit for human habitation, the poor condition of the windows throughout and the defective front door are such that the Tribunal found that the Property does not comply with Section 13(1)(a) and so the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
11. In respect of the complaint in terms of Section 13 (1) (d) of the Act that the Landlord has failed to ensure that fixtures, fittings and appliances provided by her are in a reasonable state of repair and in proper working order, the defective condition of the washing machine, cooker, the living room flooring and the lighting are such that the Tribunal found that the Property does not comply with Section 13(1)(d) and so the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
12. The decision is unanimous.

Repairing Standard Enforcement Order (RSEO)

13. Having determined that the Landlords have failed to comply with the duty imposed by section 14(1) (b), the Tribunal proceeded to make an RSEO as required by Section 24 (1) of the Act.

Appeal

14. In terms of section 46 of the Tribunals (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.

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

Karen Moore, Chairperson

21 February 2024.