



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Section 24(1) of the Housing (Scotland) Act 2006

Reference number: FTS/HPC/RT/23/4105

Re: Property at 35d Barnes Street, Barrhead, Glasgow G78 1EH (registered under title number REN12338) (“Property”)

The Parties:

East Renfrewshire Council, Environment Department, 211 Main Street, Barrhead, Glasgow G78 1SY (“Third Party”)

Shona O’Dowd, 25d Barnes Street, Barrhead, Glasgow G78 1EH (“Tenant”)

James Wardrop, North Craigton, 26 Craigton Road, Newton Mearns, Glasgow G77 6QE (“Landlord”)

Tribunal Members:

Joan Devine (Legal Member); Andrew McFarlane (Ordinary Surveyor Member)

DECISION

The Tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property in respect that the Property does not meet the Repairing Standard in respect of Section 13(1)(a), (c) and (d) of the Act. The Tribunal therefore issues a repairing standard enforcement order. The Tribunal's decision is unanimous.

Background

1. By application dated 17 November 2023, the Third Party applied to the Tribunal for a determination that the Landlord had failed to comply with their duties under Section 14(1) of the Act.
2. In the application, the Third Party stated that they believed that the Landlord had failed to comply with their duty to ensure that the property met the repairing standard as set out in Sections 13(1) (a), (d) and (h) of the Act. The Application stated that the Landlord had failed to ensure that:
 - The Property is wind and watertight and in all other respects reasonably fit for human habitation.

- Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - The Property met the tolerable standard.
3. The Third Party made the following complaints in the application and in the notification communications to the Landlord:
 - Cracked glass on kitchen window.
 - Leaking and draughty windows x 2 in living room.
 - Seal on window in living room compromised but functional.
 - Trickle vent on outside of window fallen off.
 - Cracked strip light in kitchen.
 - Landlord supplied washing machine is leaking.
 - No gas safety certificate
 4. The Application was referred to the Tribunal and an inspection and Hearing were fixed for 6 March 2024.

The Inspection

5. The Tribunal inspected the Property on the morning of 6 March 2024. The weather conditions at the time of the inspection were clear and dry. The Property is a 1st floor flat with 2 bedrooms. The Tenant was present at the inspection as were Grant Murray and Jillian McGrain of the third Party. At the inspection the Tenant told the Tribunal that the washing machine had been replaced. A schedule of photographs taken at the inspection is provided with this Decision.

The Hearing

6. The Hearing took place on 6 March 2024 at Glasgow Tribunals Centre. The Third Party was in attendance represented by Grant Murray and Jillian McGrain. The Third Party told the Tribunal that the Tenant had lived in the Property since December 2020. The Tribunal considered the issues raised in the Application on an item by item basis.
7. As regards the cracked glass on kitchen window the Tribunal noted the crack was on the inner pane of the sealed double glazed unit forming part of the window to the Kitchen.
8. As regards the cracked strip light in the kitchen the Tribunal noted that the diffuser was cracked and a piece was missing.
9. As regards the windows in the living room the Tribunal noted that the seal between the opening sash and the window frame was intact. There was no evidence of water ingress. The Third Party told the Tribunal that many of the other flats within the building of which the Property forms part are owned by Barrhead Housing Association. The Third Party told the Tribunal that the Landlord was of the view that any water ingress may be due to a communal repairs issue.

10. As regards the trickle vent on the outside the window in the kitchen, the Tribunal noted that the inset guard was missing. It was observed that the missing part was lying on the window sill externally.
11. As regards the gas safety certificate, the Third Party told the Tribunal they had requested sight of a current gas safety certificate but one had not been provided.

The Evidence

12. The evidence before the Tribunal consisted of:
 - 12.1 The Application completed by the Third Party
 - 12.2 Land Register report relating to the Property
 - 12.3 The Tribunal's inspection of the Property
 - 12.4 The oral representations of the Third Party.

Summary of the Issues

13. The issue to be determined was whether the Property meets the repairing standard as set out in Section 13 of the Act and whether the Landlord had complied with the duty imposed on him by Section 14(1)(b).

Findings in Fact

14. Tribunal made the following findings in fact:
 - 14.1 The Tenant has lived in the Property since December 2020.
 - 14.2 The tenancy is a tenancy of a house let for human habitation, which does not fall within the exceptions set out in Section 12(1) of the Act. The provisions set out in Chapter 4 of the Act therefore apply.
 - 14.3 The Tribunal in its inspection carefully checked the items which were the subject of the application. Inside the Property the Tribunal observed the following:
 - 14.3.1 There is a crack in the inner pane of the sealed double glazing unit in the kitchen window.
 - 14.3.2 The strip light diffuser in the kitchen is cracked and a piece is missing.
 - 14.3.3 The inset guard of the trickle vents on the kitchen window was missing.
 - 14.3.4 There was no evidence of water ingress through the living room windows.

Reasons for Decision

15. Following its inspection and the hearing, the Tribunal determined that the Property does not meet the repairing standard as required by Section 13(1)(a), (c) and (d) of the Act.
16. The Property is not wind and watertight and in all other aspects reasonably fit for human habitation as the inner pane of the sealed double glazing unit in the kitchen is cracked and the inset guard of the trickle vent on the kitchen window is missing.
17. The fixtures and fittings in the Property are not in a reasonable state of repair as the diffuser of the strip light in the kitchen is cracked and a piece is missing.
18. The Tribunal cannot confirm that the installations in the house for the supply of gas are in a reasonable state of repair and proper working order as no gas safety certificate is available.

Decision

23. The Tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act, and in particular that the Landlord has failed to ensure that the Property meets the repairing standard in respect of Section 13(1)(a) (c) and (d) of the Act.
24. The Tribunal therefore makes a repairing standard enforcement order as required by Section 24(2) of the Act.

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.

J Devine

**Legal Member
7 March 2024**