

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

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

**Chamber Ref: FTS/HPC/RP/23/4439**

**Title No: MID66877**

**18 Duddingston Square East, Edinburgh EH15 1RU (“The Property”)**

**The Parties:-**

**Mr David Dickson, 18 Duddingston Square East, Edinburgh EH15 1RU (“the tenant”)**

**Mr Graham Lundie, 68 Bernard Street, St Albans AL3 5QN and c/o D J Alexander Lettings, 1 Wemyss Place, Edinburgh EH3 6DH (“the landlord”)**

**Tribunal Members: Richard Mill (Legal Member) and Greig Adams (Ordinary Member)**

### **Decision**

The property does meet the repairing standard. The landlord is currently complying with the duty imposed by section 14(1) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is not necessary.

### **Background**

1. 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) of the Act in respect of the property.
2. In the written application the tenant complains that the landlord has failed to comply with their duty to ensure that the property meets the

repairing standard according to section 13(1)(c), (d) and (h), which set out the following obligations:-

- whether the installations in the house for the supply of water, gas and electricity and for sanitation, space heating or heating water are in a reasonable state of repair and in proper working order.
  - whether any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
  - whether the house does not meet the tolerable standard.
3. This application relates to a long-term complaint by the tenant regarding the gas boiler in the property not working. Following a Direction being issued on 26 February 2024 which required the landlord to produce a Gas Safety Certificate and Report on the condition of the boiler, the landlord's agents, DJ Alexander, confirmed that a new gas boiler had been installed. A Gas Safety Certificate prepared by a gas safety registered engineer was also produced dated 29 December 2023, in satisfactory terms.
  4. The tenant then questioned the safety of the new gas boiler. The landlord's representative provided a further email dated 19 March 2024 with clarification. The documents evidence that the installer of the new gas boiler, namely BK Gas Heating and Plumbing is gas safe registered and that the installation date of the new gas boiler (Vaillant ecofit pure 830) was 29 December 2023. The Gas Safety Certificate previously provided which is dated 29 December 2023 confirms that the new combi boiler, kitchen hob and lounge fire, are all in satisfactory condition.

### **Inspection**

5. The tribunal attempted to inspect the property on 25 April 2024 at 10.00am. The tribunal were denied entry. There was no one present in the property.

### **Hearing**

6. The tribunal convened a hearing at 11.45 am on 25 April 2024 by teleconference. Neither party attended the hearing.

## **Finding in Fact**

7. The property had a new gas boiler fitted on 29 December 2023 which is fully operational and gas safe. A Gas Safety Certificate dated 29 December 2023 confirms that the new combi boiler, kitchen hob and lounge fire, are all in satisfactory condition.

## **Reasons for Decision**

8. The tribunal determined the application having regard to all the relevant documentary evidence before it.
9. The tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material with which to reach a fair determination of the reference. The tribunal was satisfied that both parties were aware of the inspection and hearing and chose not to participate. The failure of the tribunal to gain entry to the property was not fundamental given the documentary evidence available which is both credible and reliable and the tribunal attached significant weight to this.
10. The tribunal is only able to consider the complaints which formed part of the intimated application and had an obligation to consider the complaints as at the date of the hearing on 25 April 2024.
11. The tribunal has already made it clear that it can only consider issues raised within the current application, which is restricted to issues of the gas boiler which has now been replaced. The tribunal cannot give consideration to the historical chronology either and is only concerned with the current condition of the property to the extent that that has been put at issue within the current application. The tribunal is satisfied that there are no outstanding issues which require the tribunal to make a determination upon.
12. The tribunal was satisfied that the property meets the repairing standard. No Repairing Standard Enforcement Order (RSEO) is warranted or necessary. The originating complaint has been resolved. The faulty gas boiler has been replaced. The gas supply and all gas appliances are gas safe.

## **Right of Appeal**

13. 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.

14. 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.

R Mill  
Legal  
Member 25  
April 2024