



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 26 (1) of the Housing (Scotland) Act 2006

Chamber Reference number: FTS/HPC/RP/23/3434

The Property:

11 Iona Street, Edinburgh EH6 8SG (“the Property”)

The Parties :

Ms Danni Oluwashegun, formerly 11 Iona Street, Edinburgh, EH6 8SG (“The Tenant”)

Ms Helen Clift, Moulin du Paradis, 56 160 Langoelan, Brittany, France (“The Landlord”)

Tribunal Members – George Clark (Legal Member) and Sara Hesp (Ordinary Member)

**Tribunal Members: George Clark, Legal Member
Sara Hesp, Ordinary (Surveyor) Member**

Decision

The First-tier Tribunal for Scotland Housing and Property Chamber, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 determined that the Landlord has not failed to comply with that duty. The Tribunal did not make a Repairing Standard Enforcement Order in respect of the Property.

Background

1. By application, dated 18 September 2023, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland (“the Tribunal”) 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. In particular, the Tenant contended that the walls on both sides of the front door were damaged due to damp, there was damage due to damp on the walls of the living room, there was a huge hole in the kitchen and hallway floorboards, there were uneven floorboards in the kitchen and hallway, there were exposed hot water pipes, there were four huge holes in the toilet wall due to uncompleted

building work, there were holes in the wooden flooring from entry points of boiler and radiator heating pipes in the bedrooms, living room and dining area and there was black mould on kitchen worktop surfaces and around the kitchen sink.

3. On 29 January 2024, the Tribunal received confirmation from the Landlord that the Tenant had been evicted from the Property on 14 November 2023. Accordingly, under Schedule 2 Paragraph 7(1) of the Housing (Scotland) Act 2006 ("The Act"), the Tenant was treated as having withdrawn the application under Section 22(1) of the Act. The Tribunal decided, however, on 31 January 2024, that the defects alleged by the Tenant, if established, would constitute a potential risk to the health and safety of future tenants of the Property and that it should continue to determine the application.

The Inspection

4. The Tribunal Members inspected the Property on the morning of 10 June 2024 and were admitted by Landlord. The Tenant, no longer being a Party to the application, was not present. A Schedule of Photographs, taken at the Inspection, is attached to and forms part of this Statement of Decision.

The Hearing

5. Following the Inspection, a Hearing was held at George House, 126 George Street, Edinburgh. The Landlord was not in attendance. The Tenant, no longer being a Party to the application, was not present.

Reasons for Decision

6. The Tribunal noted at the Inspection that, whilst there is flaking paintwork at the base of the external front wall adjacent to the entrance door of the Property, there is no evidence that the Property is not watertight. There is no evidence of dampness affecting the living room walls. Although the hallway floor is partly covered by a runner which is fixed to the floor, there was no evidence of any dip in floor level when it was walked upon. There is no evidence of a hole in the kitchen floor or of any unevenness in the floorboards in the hallway or kitchen. The hot water pipes serving the central heating boiler are exposed, but they are in a cupboard built to house the boiler and pipes. There are no holes in the toilet wall or in the wooden flooring around the radiator heating pipes in the bedrooms, living room or dining area. There is evidence of staining on the kitchen worktop surfaces around the sink, but no evidence of mould. The staining is not sufficient to suggest that the worktop is not in a reasonable state of repair.
7. Heat and smoke detectors are in place and there is a carbon monoxide monitor in the bedroom in which the central heating boiler is located. The Tribunal would advise relocating the carbon monoxide monitor so that it is above the height of the boiler.

Decision

8. Having considered all the evidence before it, the Tribunal made a finding that the Landlord has not failed to comply with the duties imposed by Section 14(1)(b) of the 2006 Act.

9. The Tribunal's Decision was unanimous.

G Clark

Legal Member

10 June 2024
Date

Housing and Property Chamber
First-tier Tribunal for Scotland



11 Iona Street, Edinburgh EH6 8SG

FTS/HPC/RP/23/3434

Schedule of photographs taken on 10 June 2024



Photograph 1: Front elevation

Photograph 2: Front elevation: walls on both sides of front door



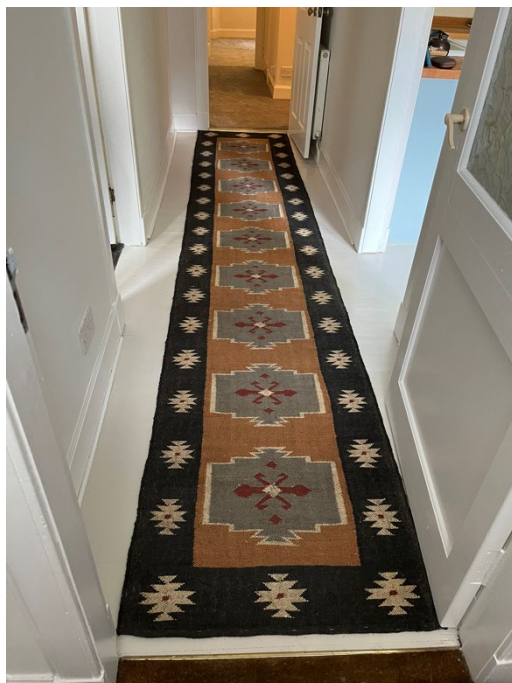
Photograph 3: Living room: walls



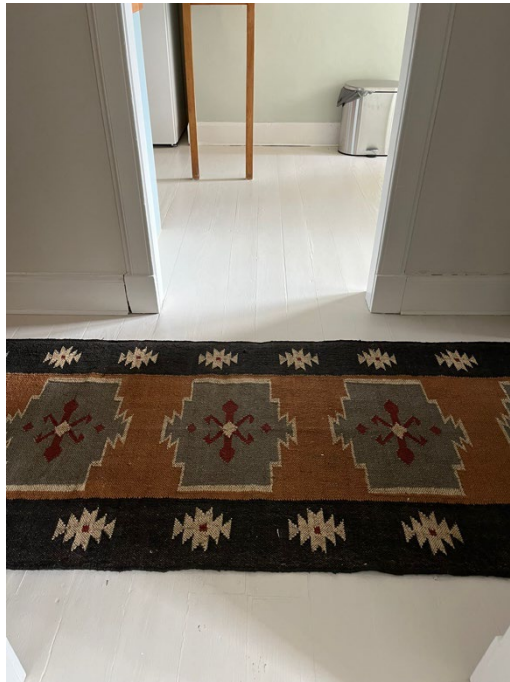
Photograph 4: Living room: walls



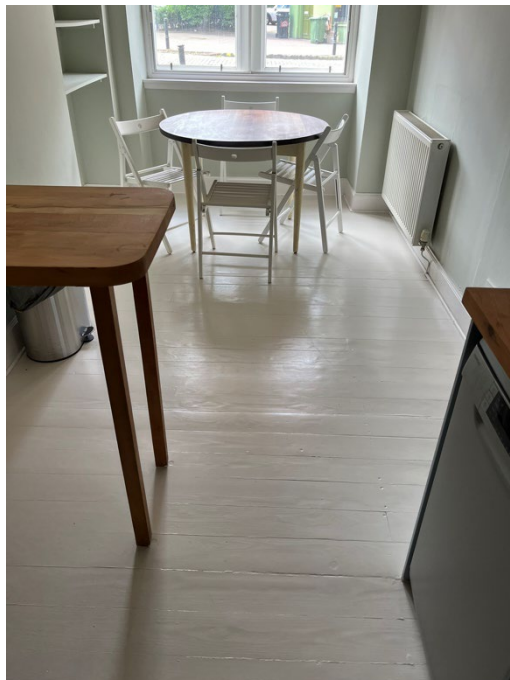
Photograph 5: Hallway: flooring



Photograph 6: Hallway and kitchen: flooring



Photograph 7: Kitchen: flooring



Photograph 8: Kitchen: flooring



Photograph 9: Bedroom 2: gas boiler



Photograph 10: Bedroom 2: exposed pipework in boiler cupboard



Photograph 11: Bedroom 2: carbon monoxide detector



Photograph 12: Toilet: walls



Photograph 13: Toilet: walls



Photograph 14: Living room: flooring and radiator pipework



Photograph 15: Bedroom 1: flooring and radiator pipework



Photograph 16: Bedroom 2: flooring and radiator pipework



Photograph 17: Kitchen (dining area): flooring and radiator pipework



Photograph 18: Kitchen: worktop



Photograph 19: Kitchen: worktop

