

# 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:** in terms of Section 24 (1) of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22 of the Act

**Chamber Ref:** FTS/HPC/RP/23/4559

**Re:** 252 0/1 Drumry Road East, Glasgow, G15 8PQ registered in the Registers of Scotland under Title Number GLA167235 (“the Property”)

**The Parties:**

**Smillie Holdings Limited, c/o EVE Property (Scotland) Limited, 2a Herschell Street, Glasgow, G13 1HR (“the Landlord”) per their agents EVE Property (Scotland) Limited, 2a Herschell Street, Glasgow, G13 1HR (“the Landlord’s Agents”)**

**Tribunal Members:**

Karen Moore (Chairman) and Donald Wooley (Ordinary and Surveyor Member)

## **Decision of the Tribunal**

The Tribunal determined that the Landlord has not failed to comply with the duty imposed on them by Section 14(1)(b) of the Act as the Property meets the Repairing Standard in respect of Sections 13(1)(a), 13(1) (c ) and 13(1) (h) of the Act.

The Tribunal dismissed the Application.

## **Background**

1. By application received on 19 December 2023 (“the Application”), the tenant of the Property 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 Sections 13(1)(a), 13(1) (c) and 13(1) (h) of the Act. The Application comprised a copy of the tenancy agreement between the Tenants and the Landlord, copy correspondence between the Tenants and the Landlord’s Agents regarding repairs to the Property.

2. The Application listed works required: - the window is not fitted properly, there is a leak in the pipes under the bath, no electrical checks have been carried since 2017 and the electricity meter has been by-passed.
3. The Application was referred to the Tribunal. An Inspection of the Property and a Hearing were fixed for 20 June 2024 at 10.00 and 11.45 respectively and intimated to the Parties.
4. Prior to the Inspection and Hearing, the tenant requested that the Application be withdrawn. The Tribunal had reagrd to health and saftey aspects of the Application, and, on its own initiative contiued the Application.
5. The Tribunal issued the following Direction to the Landlord: *“The Landlord is required to produce a current Electrical Installation Condition Report (EICR) for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category and, where applicable, the outcome in respect of the individual areas should be appropriately marked with a “tick” if in an acceptable condition. The said EICR should be lodged with the Chamber no later than 4.00 pm on 18 June 2024.”* The Landlord complied with the Direction, albeit outwith the time limit.

### **Inspection and Hearing**

6. The Inspection of the matters complained of in the Application took place at the Property on 20 June 2024 at 10.00 am. The Landlord was not present and was represented by Ms. E. McCulloch of the Landlord’s Agents. A Schedule of Photographs was taken at the Inspection and is annexed hereto.
7. The Hearing took place on 20 June 2024 at 11.45 am at Glasgow Tribunal Centre. The Landlord was not present and was represented by Ms. E. McCulloch of the Landlord’s Agents.
8. The Tribunal discussed the Inspection with Ms. McCulloch and advised that it was satisfied that the issues raised in the Application had been attended to and that the smoke, heat and carbon monoxide detectors complied with the statutory regulations. The Tribunal noted that a competent EICR dated 14 June 2024 had been provided by the Landlord. The Tribunal noted that the electricity meter had been renewed on that date, At the Hearing, Ms. McCulloch produced a valid and satisfactory Gas Safety Certificate.

## **Findings of Fact**

9. The Tribunal's findings in fact were made from the Application, the Inspection and the Hearing.

10. The Tribunal found the following matters established: -

1. The window in the rear bedroom which is used as a living room fits properly in the frame.
2. The leak under the bath has been fixed although the bath panel has still to be re-fixed;
3. There is a compliant electricity meter;
4. There is a valid EICR;
5. There is a valid Gas Safety Certificate;
6. There are compliant smoke, heat and carbon monoxide detectors.

## **Decision of the Tribunal and Reasons for the Decision of the Tribunal**

11. Having found that the works listed in the Application have been carried out, the Tribunal found that the Landlord has not failed to comply with the duty imposed on them by Section 14(1)(b) of the Act as the Property meets the Repairing Standard. Accordingly, the Tribunal dismissed the Application.

12. The decision of the Tribunal is unanimous.

## **Appeal**

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**

Karen Moore, Chairperson

27 June 2024