

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Reference number: FTS/HPC/RT/24/0545

Re: Property at 15 King Street, Falkirk, FK2 9AL (“the Property”)

Title Number: STG12224

The Parties:

Falkirk Council, Private Sector Team, Suite 2, The Forum, Callendar Business Park, Falkirk, FK1 1XR (“The applicant”)

Ms Yvonne Baird, residing at 3 The Steadings, Milnquarter Farm, Roman Road, Bonnybridge, FK4 2FJ (“the Landlord”)

Interested Party:

Mrs Andrea Stamate, residing at 15 King Street, Falkirk, FK2 9AL (“the Tenant”)

Tribunal Members:

**Paul Doyle (Legal Member)
Sara Hesp (Surveyor Member)**

Decision

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence submitted by the applicant, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. On 02 February 2024 the applicant submitted Form A asking for a Repairing Standard Enforcement Order on the basis that the property fails to meet the Repairing Standard.

2. The applicant says that the respondent has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“The Act”) and in particular that the landlord has failed to ensure that:-

The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order in terms of Section 13(1)(c) of the 2006 Act;

3. On 12 February 2024 the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal.

4. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord, the Applicant, and the Tenant.

5. Neither the applicant nor the Tenant made any further written representations. The Landlord made representations by email dated 19 June 2024.

6. Tribunal members inspected the Property at 10am on 24 June 2024. The Applicant was represented by Mr C Beatt. The Tenant was present. The Landlord was neither present nor represented. During the inspection on 24 June 2024, the surveyor member took photographs of the property. A schedule of those photographs is annexed hereto.

7. Following the inspection of the Property the Tribunal held a hearing by telephone conference at 11.45am on 24 June 2024. Mr C Beatt attended for the applicant. The landlord attended and was unrepresented. The tenant was neither present nor represented.

Summary of the issues

8. The issues to be determined are

Does the property meet the repairing standard (as defined in s.13 of the Housing (Scotland) Act 2006?)

Findings of fact

9. The tribunal finds the following facts to be established:-

(a) The landlord is the heritable proprietor of 15 King Street, Falkirk, FK2 9AL (“the property”). The landlord let the property to the tenant on 21 May 2018.

(b) The property is a three bedroomed, first floor, flatted dwellinghouse entering from a common passage and stair. The front door of the property opens onto a central hall providing access to all the rooms. The property has gas central heating.

(c) Before the application was submitted, the Landlord produced a satisfactory and up to date gas safety certificate.

(d) The property has interlinked smoke alarms and heat detectors. It has one carbon monoxide detector adjacent to the gas boiler in the kitchen and another in the living room.

(e) All of the portable electrical appliances in the property belong to the tenant.

(f) In May 2024 The Landlord instructed Stewart Electrical Ltd, in Grangemouth, to inspect the electrical installation and provide an Electrical Installation Condition Report (EICR). The Landlord has still not received the EICR despite asking as recently as 19 June 2024.

Reasons for the decision

10. (a) Tribunal members inspected this property at 10:00am on 24 June 2024. The tenant welcomed tribunal members into the property and allowed tribunal members to inspect the property.

(b) This application is restricted to s13(c) of the 2006 Act. The applicant specifies 5 heads of complaint

(i) AN EICR has not been exhibited

(ii) The Landlord has not exhibited a Portable Appliance test certificate

(iii) The Landlord has not provided an up to date Gas Safety certificate

(iv) The applicant does not know if a carbon monoxide detector has been installed

(v) The applicant does not know if interlinked smoke and heat detectors have been installed.

(c) Parties are now agreed that a satisfactory gas safety certificate has been exhibited. Parties also agree that the Landlord has not provided portable electrical appliances.

(d) During the inspection, Tribunal members saw smoke and heat detectors, and carbon monoxide detectors within the property. Tribunal members tested the smoke and heat detectors and satisfied themselves that they are interlinked and are fully functional and located and powered in accordance with the Scottish Government's Guidance relating to the Tolerable Standard on satisfactory fire detection and satisfactory carbon monoxide detection.

(e) At the hearing, the Landlord explained her efforts to obtain a satisfactory EICR. An electrical inspection has been carried out, but the EICR has not been

delivered to the Landlord. The Landlord told us that she cannot be certain that the contractors are suitably qualified SELECT, NICEIC or NAPIT registered electricians.

(f) The only outstanding matter in this application is production of a satisfactory, up to date, EICR prepared by suitably qualified SELECT, NICEIC or NAPIT registered electricians.

(g) The weight of reliable evidence tells us that today the Landlord cannot exhibit a satisfactory EICR prepared by suitably qualified SELECT, NICEIC or NAPIT registered electricians. For that reason alone, the property fails to meet the repairing standard. We therefore make a Repairing Standard Enforcement Order requiring the landlord to

(a) Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire electrical installation in the property (and any electrical appliances and equipment supplied by the landlord) and carry out all necessary remedial works to rectify any identified C1 and C2 categorised areas.

(b) Thereafter to provide the First-tier Tribunal for Scotland (HPC) with a satisfactory EICR prepared by a suitably qualified SELECT, NICEIC or NAPIT registered contractor.

All within 30 days.

Decision

11. The tribunal accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

12. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

13. The decision of the tribunal was unanimous.

Right of Appeal

14. A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

Effect of section 63

15. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

P Doyle

Signed
Legal Member

24 June 2024