



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

### Statement of Decision under section 24(1) of the Housing (Scotland) Act 2006 ("the 2006 Act")

PROPERTY AT 39 Yeamans Lane, Dundee DD2 3EJ ("the Property")

Case Reference FTS/HPC/RP/24/0040

- Ms Zoe Wallace, 39 Yeamans Lane, Dundee DD2 3EJ ("The Tenant")
- Dundee Asset Managers Ltd, 86 Inda Buildings, Bell Street, Dundee DD1 1NH ("Respondent").

#### The Tribunal comprised:-

Ms Gabrielle Miller - Legal Member  
Mr Robert Buchan - Ordinary 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 Property, determined that the Landlord had complied with the duty imposed by Section 14(1)(b) of the Act.**

#### Background

1. By application dated 28<sup>th</sup> December 2023 as amended 9<sup>th</sup> February 2024 by the Housing and Property Chamber. The Tenant applied to the Housing and Property Chamber for a determination as to whether the Landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that she considered that the Landlord had failed to comply with its duty to ensure that the Property met the Repairing

Standard in that the Property is not wind and watertight and in all other respects reasonably fit for human habitation and any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order. In particular, the complaints consisted of:-

- a) The downstairs hall cupboard has damp and mould inside it. It was not fit for human habitation; and
- b) There the freezer and washing machine, which were provided by the landlord, were not in working order.

### **The Inspection**

3. The Tribunal attended the property on the morning of 13<sup>th</sup> June 2024. The Applicant was present and represented herself. She said that she had to contact her solicitor but wished to proceed without her solicitor present. The Respondent was represented by Mr Billy Baxter, Branch Manager, Belvoir Dundee (noting that Dundee Asset Mangers Limited is trading as Belvoir Dundee). It was a clear sunny day.
4. The inspection was undertaken by the Ordinary Member (Surveyor Member) and the Legal Member.
5. The Property comprised a two bedroom flat which was on one level. It is situated on the first floor of a four storey purpose built block of flats. The Property was furnished and there were appropriate floor coverings in place.
6. The Tribunal inspected the hall cupboard and the unused second bedroom. The Surveyor member took damp readings and photographs.
7. The Tribunal inspected the appliances in the kitchen. The appliances were not turned on by the Tribunal during the inspection. The freezer appeared to be functioning with food frozen inside it. There was no sign of PAT tests having been conducted.
8. During the inspection photographs were taken by the Ordinary Member and a schedule of photographs is attached to this decision.
9. The inspection was concluded and the Tribunal travelled to the venue for the hearing.

### **The Hearing**

10. The hearing took place on 11<sup>th</sup> July 2024 at 11.45am at Endeavour House, 1 Greenmarket, Dundee. Mr Billy Baxter, Branch Manager, Belvoir Dundee was present. The Applicant had indicated that that she would not be present during the inspection. She did not attend the hearing.
11. The Tribunal was satisfied that there were no issues regarding damp in the Property. The Surveyor Member had undertaken readings with a damp reader. Any

issues appeared to arise from condensation as opposed to damp. The Tribunal did not consider that this breached the repairing standard.

12. With regard to the washing machine and freezer, simply not working is not an issue for the Tribunal however PAT confirmation does need to be lodged to confirm that the that items are safe for the Applicant to use. Mr Baxter explained that he was new to the company. This was his first time in the Property. Mr Baxter said that he was to arrange to have new items put into the Property to replace those that were there. He would be able to have this done within a week of the hearing. The Tribunal decided to defer their decision for one week to allow proof of this to be lodged. It noted that new items did not require PAT documentation.
13. On 5<sup>th</sup> July 2024 Mr Baxter emailed the Housing and Property Chamber lodging an invoice for replacing the appliances and an email from the electrician stating that works had been completed.
14. The Tribunal was satisfied that the Repairing Standard had been met for issues raised by the Applicant.

### **Summary of the issues**

15. The issues to be determined are:-
  - a) Was there damp in the areas specified; and
  - b) Whether the two electrical items were in working order.

### **Findings of fact**

16. Having considered all the evidence, the Tribunal found the following facts to be established:-
  - a) The Applicant lives in a property owned by the Respondent. She is a tenant of the Respondent.
  - b) As at the date of the inspection and hearing, there were no issues in the Property arising from damp.
  - c) On 5<sup>th</sup> July 2024 the Respondent's representative lodged evidence with the Housing and Property Chamber confirming that the appliances had been replaced with new ones. These appliances do not need to have PAT tests done to them as they are new. The Tribunal found no issues with these items.
  - d) The Property meets the repairing standard.

### **Reasons for the decision**

17. The Tribunal determined the application having regard to the terms of the application, the written representations received prior to the hearing, the findings of their inspection and the evidence of the Respondent's representative.

18. The Tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the application.
19. The Tribunal was satisfied that all the points raised in the application had been dealt with by the Landlord and that there were no outstanding issues. The Tribunal was satisfied that the Repairing Standard was met and that no further orders were necessary.

## **Decision**

- (a) The Tribunal accordingly determined that the Landlord had complied with the duty imposed by Section 14(1)(b) of the Act.
- (b) The Tribunal did not need to issue any further orders.
- (c) The Tribunal did not need to take any further action.
- (d) The decision of the Tribunal was unanimous.

**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 or so determined.

G Miller, Chairperson and Legal Member  
18<sup>th</sup> July 2024

Photographs taken during the inspection of 39 Yeamans Lane, Dundee, DD2 3EJ  
Chamber reference number HPC/RP/24/0040



Front of the block



Hall cupboard

Photographs taken during the inspection of 39 Yeamans Lane, Dundee, DD2 3EJ  
Chamber reference number HPC/RP/24/0040



Washing machine in the kitchen



Broken drawer in the freezer