



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/4665

Re: Property at 2/3 BLOCK B 350 ARGYLE STREET, GLASGOW, G2 8ND (“the Property”)

Parties:

Mr Ewe Win Eng, Mrs Tee Yin Ai, 0/1 10 CHARLOTTE STREET, GLASGOW, G1 5DP (“the Applicant”)

Miss Shu Guo, 23E Tower 1 The Avenue, No200 Queens Road East, Wanchai, Hong Kong (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

Outcome

1. The Tribunal granted an order for the Respondent to pay the sum of two thousand six hundred and fifty pounds (£2650) to the Applicant.

Background

2. This was an adjourned case management discussion (‘CMD’) in connection with an application in terms of section 71 of the Private Housing (Tenancies)(Scotland) Act 2016 (‘the Act’) and rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (‘the rules’). The Applicant attended and there was an interpreter. The Respondent did not attend and was not represented. The first CMD on 7 May 2024 was adjourned to enable service of the application to be effected on the Respondent by advertisement. The Tribunal had instructed Sheriff Officers to serve the papers for the first CMD and they attempted to do so by first class international signed for mail. The service was not effected as the Respondent refused to accept the mail. The Tribunal had sight of the certificate for service by advertisement

and was satisfied that service by advertisement had been effected. The Tribunal also sent the Respondent notification by email. The Tribunal proceeded with the CMD in the Respondent's absence in terms of rule 29.

3. The Tribunal had before it the following documents;

- Application dated 16 February 2024.
- Land certificate.
- Landlord registration details.
- Short Assured Tenancy Agreement dated 20 April 2023.
- Private Residential Tenancy Agreement (unsigned).
- Copy emails between the parties from 20 April 2023 to 21 December 2023.
- Engineer inspection report dated 3 December 2023.
- Email from Applicant dated 24 December 2023 with timeline.

The Applicant's position

4. The Applicant lived in the property from 4 June 2023 until 11 January 2024. The Applicant rented a room and bathroom in the 2 bed property and the Applicant shared the kitchen and living room with another tenant. The monthly rent was £750. On 5 June 2023 the Applicant sent a detailed email to the Respondent setting out various defects with the property. The heating was not working, the appliances were faulty and there was no smoke detector. The Respondent instructed engineers to report on three occasions but no action was taken to address the major issues. As set out in the engineer's report of 3 December 2023, there was no central heating in the property throughout the Applicant's occupation. Portable heaters were provided but the flat was cold and the electricity costs were very high. There were numerous problems with the hob, dishwasher and other appliances.

5. The Applicant tried to withhold rent until the problems were resolved but they were advised to repay the withheld rent and make an application to the Tribunal. The Respondent did take steps to effect some minor repairs over the course of the tenancy, however given there was no heating and there was only one functioning ring on the hob, the Applicant gave notice to the landlord and left the property on 11 January 2024. The Applicant made an application in connection with the repairing standard but this was refused at the CMD as the tenancy had come to an end. The Respondent also failed to provide a PRT and the one eventually produced did not have the full terms as set out in the Model Tenancy Agreement. This was never signed. The Applicant is seeking a return of one half of the rent paid between June 2023 and January 2024 which is £2625.

6. Findings in fact

- **The Respondent is the joint owner of the property.**
- **The Respondent is the registered landlord of the property.**

- The parties entered into a tenancy agreement for let of a room in the property on 20 April 2023 with a start date of 4 June 2023.
- That tenancy agreement was a private residential tenancy agreement despite it being named as a short assured tenancy agreement.
- The agreed rent was £750 per month.
- There were numerous problems with the property. It was dirty, there was no smoke detector, the heating did not work, there were problems with the lighting, the dishwasher was faulty, only one ring was working on the cooker and there was no lock on the bedroom door.
- The Applicant drew these matters to the Respondent's attention on 5 June 2023 via email.
- Minor repairs were effected but the major problems with the heating, lightings and appliances remained for the duration of the tenancy.
- The Applicant also requested a private residential tenancy agreement.
- The Respondent sent a draft agreement to the Applicant around November 2023 but this was not signed by the parties.
- The Respondent provided a fan heater but the heating was never fixed and the electricity bills were higher than expected.
- The Respondent arranged for engineers to visit the property and provide a report on three occasions between June 2023 and December 2023. The Applicant obtained a copy of the report from 3 December 2023 which set out the problems with the flat in detail.
- The engineer identified that the radiators have power going to them but none of them are working, the cooker and dishwasher are faulty, and that there are problems with the lighting, flooring and the splashback area behind the sink.
- The Applicant resided in the property from 4 June 2023 until 11 January 2024.
- The Applicant gave notice due to the Respondent's failure to carry out any repairs to the heating or replace the appliances.

Reasons

7. This was an undefended application to recover rent due to various defects with the property. The Tribunal was satisfied that service had been effected by advertisement. The Respondent was also sent emails from the Tribunal and had not responded. The Tribunal was satisfied that it had sufficient information before it to reach a final decision and the procedure had been fair.

8. It was clear from the copy email correspondence provided with the application that the Respondent was aware of the many issues with the property at the time the Applicant took entry. The Applicant's email of 5 June 2023 sets out in detail that there was no fire detection system, the heaters were not working and there were issues with the lighting. The Applicant inquired about PAT testing of the appliances and a lack of a lock in the bedroom door. The Applicant had initially withheld rent pending a resolution of the problems but some months later was advised to repay the rent and apply to the Tribunal. The Tribunal decided it was reasonable in all of the circumstances to make an order in the Applicant's favour for one half of the rent paid

between June 2023 and January 2024. The Applicant had paid £5250 but their use and enjoyment of the property were seriously diminished due to the defects identified in June 2023 which were not rectified by the time the Applicant left in January 2024. There was no heating in the property and the cooker and dishwasher were faulty. The Tribunal accordingly made an order for £2625 representing one half of the rental payments for that period.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

Lesley Anne Ward

1 August 2024

Legal Member/Chair

Date