



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/24/1363

Re: 12/4 West Winnelstrae, Edinburgh EH5 2ET (“the Property”)

Title No: MID169610

The Parties:

Mr Karol Pawlik, 12/4 West Winnelstrae, Edinburgh EH5 2ET (“the Tenant”)

Ms Ling Chan, 4/3 South Learmonth Avenue, Edinburgh EH4 1PE (“the Landlord”)

**Tribunal Members: George Clark, Legal Member
Greig Adams, 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 March 2024, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland (“the Tribunal”) for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The application listed 8 items of disrepair, namely silicone in the kitchen, a faulty wardrobe, a rusty mirror shelf, a faulty kitchen extractor, a rusty oven, holes in the bathroom wall and the need for wall painting, the living room carpet not fitted and a faulty boiler, with no hot water.

The Inspection

3. The Tribunal Members inspected the Property on the morning of 5 August 2024 and were admitted by the Tenant. The Landlord was present and was accompanied by Jack Middlemiss, Property Manager and Leah Birch, Operations Director, both of Southside Property Management, Edinburgh, the Landlord's letting agents. A Schedule of Photographs, taken at the Inspection, is attached to and forms part of this Statement of Decision.

The Hearing

4. Following the Inspection, a Hearing was held at George House, 126 George Street, Edinburgh. The Parties who attended the Inspection were all present. It was agreed that the silicon in the kitchen and kitchen extractor had been replaced and these items were not considered further.
5. The Ordinary Member of the Tribunal summarised the findings of the Inspection:
 - The carpet in the living room is not securely fixed down at its junction with the skirting.
 - There are localised areas of defective coating to the free-standing cooker.
 - The bottom of the sliding door of a bedroom wardrobe is disengaged. The top rail is working.
 - There is evidence of minor corrosion along the metal retention trim of the mirrored wall cabinet in the bathroom.
 - There are redundant fixing holes evident on the bathroom wall from previous fixtures/fittings and of a towel rail support bracket secured by an adhesive pad which has failed.
 - Minor mould growth was evident on the external wall of the bathroom.
6. The Landlord's agents accepted that there is still an issue to be resolved regarding the hot water supply. The immerser has been replaced. At the Hearing, they confirmed that that a quotation to replace the full system is being obtained.

Reasons for Decision

7. The location of the defective fitting of the living room carpet is not such as to cause it to be a trip hazard. It is a minor, cosmetic, issue.
8. The defective coating to the cooker is again a cosmetic issue and would not affect the ability of the Tenant to use it.
9. The bedroom wardrobe is still in reasonable working order.
10. The corrosion to the bathroom cabinet trim is also very minor and cosmetic, as are the redundant fixing holes on the bathroom wall. Neither defect impairs the occupation and use of the room. The ceiling has, however, recently been repainted and it might have been prudent to have the holes filled and the affected wall decorated at that time.

11. The mould growth on the bathroom wall is very minor.
12. The view of the Tribunal was that none of the items investigated at the Inspection and Hearing were sufficient to warrant a finding that the Property does not meet the Repairing Standard. The matter of hot water supply was, however, an issue to be resolved, but, as it appeared that the Landlord had only been apprised on the morning of the Inspection that the problem had not been fixed by previous action on the part of the Landlord, and that she was taking active steps to remedy the situation, the Tribunal told the Parties that it would delay issuing its Decision for a short time, in the hope that appropriate steps would be taken. In the event, this took longer than anticipated, but on 23 September 2024, the Landlords' representative advised the Tribunal that a new thermostat had been fitted and on 25 September 2024, the Tenant confirmed that the hot water supply now seems to be in order.

Decision

13. Having considered carefully 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 and decided not to make a Repairing Standard Enforcement Order.
14. The Tribunal's Decision was unanimous.

G Clark

Legal Member

27 September 2024
Date



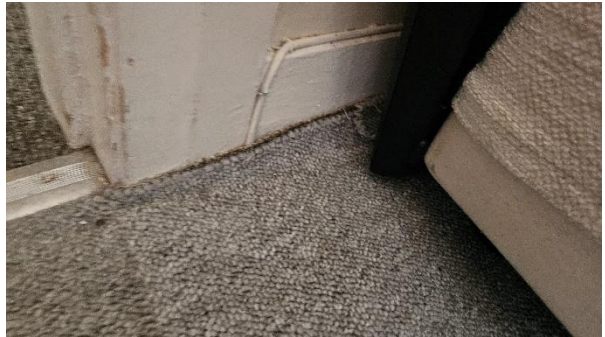
**12/4 West Winnelstrae, Edinburgh,
EH5 2ET
“the Property”/ “the House”)**

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SCHEDULE OF PHOTOGRAPHS



1 Perimeter of carpet floor covering at skirting junction.



2 Perimeter of carpet floor covering at skirting junction.



3 Silicon sealant in Kitchen recently replaced.



4 Cooker hood – recently replaced.



5 Example of localised area of defective coating to freestanding cooker.



6. Further example of localised area of defective coating to freestanding cooker.



7 Bottom of door disengaged from sliding track (bedroom wardrobe).



8 Bathroom cabinet – corrosion evident along metal retention trim.



9 Bathroom cabinet - "L" shaped metal retention trim corroded.



10 Bathroom walls – redundant fixing holes evident from previous fixtures/fixings.



11 Towel rail support bracket secured by adhesive pad which has failed within Bathroom.



12 Bathroom walls – minor mould growth evident to external wall.



13 Minor imperfections evident to decoration in Bathroom.



14 Electric heating.



15 Hot water cylinder.



16 Pressure gauge.