

Housing and Property Chamber First-tier Tribunal for Scotland



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 Reference number: FTC/HPC/RP/24/2515

Parties:

1. Mr. Robert McAllister residing at 32, Castlemilk Crescent. Croftfoot, Glasgow, G44 5PJ (“the Tenant”)
2. Mr. Paul Duffy residing at 4, Ballantrae, East Kilbride, G74 4TZ 3AN (“the Landlord”)

Property: Upper flat at 32, Castlemilk Crescent. Croftfoot, Glasgow, G44 5PJ being the subjects registered under title sheet number GLA155978

Tribunal Members

Karen Moore (Chairperson) and Andrew Taylor (Surveyor and Ordinary 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 in respect that the Property meets the Repairing Standard in respect of Sections 13(1) (a) and 13(1) (h) of the Act.

Background

1. By application received on 31 May 2024 (“the Application”), the Tenant 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 him by Section 14(1)(b) of the Housing (Scotland) Act

- 2006 (“the Act”) in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (d) and 13(1) (h) of the Act.
2. The Application comprised the tribunal chamber’s standard application form and copy messages sent by the Tenant to the Landlord detailing the extent of the works require and advising that the Property may not meet the Repairing Standard and the Tolerable Standard.
 3. Specifically, the Application stated that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard as there is a leak from the bath and the bath waste pipe causing water ingress to the flat below, that the Landlord had failed to carry out the repair timeously and had left the occupants of the Property with no bathing facilities.
 4. A Convener of the Chamber, with delegated powers under Section 96 of the Housing (Scotland) Act 2014 and Section 21 (8A) of the Act, having considered the application in terms of Section 23(3) of the Act determined to refer the Application to a tribunal, and, in terms of Schedule 2, Paragraph 1 of the Act the First-tier Tribunal for Scotland served Notice of Referral upon the parties on 19 June 2024 and fixed an Inspection and Hearing for 4 November 2024 at 10.00 and 11.45, respectively.
 5. Prior to the Inspection and Hearing, the Landlord submitted written submissions stating that the work had been completed.

Inspection

5. The Inspection took place on 4 November 2024 at 10.00 a.m. at the Property. The Tenant, Mr. McAllister, was present along with his wife and was not represented. The Landlord, Mr. Duffy, was present and not represented. He was accompanied by Mr. Hesketh as a supporter.
6. The Tribunal inspected the Property in respect of the matters raised in the Application. At the Inspection, the Tribunal took photographs which form the Inspection Report annexed. Also, at the Inspection, the Tribunal ran the bath tap to assess if there was a leak and found none.

Hearing

7. The Hearing was held at 11.45 in the Glasgow Tribunal Centre on 4 November 2024 at 11.45 a.m. The Tenant, Mr. McAllister, was present and was not represented. The Landlord, Mr. Duffy, was present and not represented. He was accompanied by Mr. Hesketh as a supporter.

8. The Tribunal explained the extent of its role to the Parties and discussed the Property as viewed at the Inspection. The Tribunal advised that, at the Inspection, there was no evidence that the bath and the bath waste pipe were leaking.
9. Mr. Duffy advised the Tribunal that repairs had been carried out in or around April or May 2024. He stated that these included new wet walls, the repair to the bath leak and other ancillary work.
10. Mr. McAllister agreed that works had been carried out and confirmed that his downstairs neighbor had not made any further complaints. He agreed that the works had been completed before he lodged the Application and explained that he had been advised to do so by Shelter.
11. The Tribunal explained that it made its decision based on the date of that Inspection and Hearing and explained that its power is to order the landlord to carry out the work required to have the property meet the Repairing Standard. If no work is required, there is no need for the Tribunal to make an Order.
12. The Tribunal explained that it could not make an order for compensation for inconvenience caused by a temporary lack of facilities. The Tribunal stated that whilst it could not comment directly, the advice given might have been to lodge an application for compensation, or, the advisors had not realised that the work had been carried out.

Summary of the Issues

13. The issues to be determined by the Tribunal are whether or not the Property meets the Repairing Standard in respect of Sections 13(1) (a) and 13(1) (h) of the Act at the date of the Inspection and Hearing.

Findings of Fact

14. From the Inspection and the Hearing, the Tribunal found the following in respect of matters specifically complained of in the Application:
 - i) The Property is a top floor flat within a block of four flats;
 - ii) The bath waste pipe is sealed and there is no leak;
 - iii) There is new wet wall panelling at the bath;
 - iv) The floor under the bath is dry and there no signs of dampness.

Decision of the Tribunal and reasons for the decision.

15. The Tribunal's decision is based on the Application with supporting documents, the Landlord's written representations, the Inspection, and the Hearing.

16.

17. In respect of the complaints in terms of Section 13 (1) (a) of the Act that the Landlord has failed to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation, the Tribunal found that there is no evidence that the house is not wind and watertight and so at the date of the Inspection and Hearing the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

18. In respect of the complaint in terms of Section 13 (1) (h) of the Act that the Landlord has failed to ensure that the Property meets the Tolerable Standard as the Property does not have an effective system for drainage and disposal of foul and surface water, as the Tribunal has found that the bath waste pipe is sealed and there is no leak, the Tribunal found that the Property meets the Tolerable Standard and so the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

19. The decision is unanimous.

K Moore

Signed

Karen Moore, Chairperson
2024

Date 4 November



Pre-hearing Inspection Summary and Schedule of Photographs



Property – 32 Castlemilk Crescent, Croftfoot, Glasgow, G44 5PJ

Reference- FTS/HPC/RP/24/2515

Tribunal Members – Karen Moore (Legal Member) & Andrew Taylor (Ordinary Member)

Purpose of Inspection – To prepare a record of the position at the property specifically as it relates to the items raised in the application and any issues arising therefrom.

Access – 10.00am, 4th November 2024

Weather – Overcast, drizzle.

In Attendance – The above Tribunal Members attended the property. Also in attendance was Mr Paul Duffy and Mrs Claire Duffy, Tenants; Mr Robert McAllister, Landlord and his surveyor/supporter Mr Hesketh.

Appendix 1

Schedule of Photographs taken during the Inspection on 4th November 2024



1. Bath, wetwall boarding and silicone seal.



2. Instantaneous electric shower.



3. Bath trap.

Andrew Taylor

Surveyor Member, Housing and Property Chamber, First-tier Tribunal for Scotland

4th November 2024