



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 60(5) of the Housing (Scotland) Act 2006

Case Reference FTS/HPC/RP/23/3907 and FTS/HPC/RP/23/3684

167 Stonylee Road, Cumbernauld, G67 2LS being the subjects registered
under Title number DMB76193 (**‘The Property’**)

Ms Serena Stocklose, formerly 167 Stonylee Road, Cumbernauld, G67 2LS
(**“The former Tenant”**)

Mr Brian Alfred Cathcart, 167 Stonylee Road, Cumbernauld, G67 2LS (**“The
Respondent”**)

Jacqueline Taylor (**Legal Member**) and Carol Jones (**Ordinary Member**)

1. Background.

- 1.1. The Tribunal received two applications by the former Tenant under section 22(1) of the Housing (Scotland) Act 2006 dated 16th October 2023 and 5th November 2023, being applications under the Repairing Standard.
- 1.2. After the Tribunal had received the applications they received confirmation from the former Tenant that the tenancy of the house had been terminated. The Tribunal determined that the Tenant was to be treated as having withdrawn the application under Schedule 2 Paragraph 7(1) of the Housing (Scotland) Act 2006.
- 1.3. The Tribunal then considered the applications and whether they should be determined or whether they should be abandoned, all in terms of Schedule 2 Paragraph 7(3) of the Act. The Tribunal, in terms of their decision dated 15th April 2024, determined that due to the health and safety concerns relating to the matters detailed in the applications they would continue to determine the applications.
- 1.4. The Repairing Standard applications had been notified to the former owners of the Property Brian Cathcart and Kimberley Denham. An inspection by the Tribunal had been scheduled to take place on Monday 10th June 2024 at 10am. In advance of the Inspection the Tribunal obtained an updated title sheet for the Subjects which states that Brian

Alfred Cathcart purchased the Property on 13th March 2024. As the said Brian Alfred Cathcart had not been notified of the scheduled inspection it was cancelled and rescheduled for 25th October 2024.

- 1.5. The Landlord sent the Tribunal an email dated 25th September 2024 advising that he has received notification of the inspection scheduled for 25th October 2024. He explained that he has owned the Property since March 2024.

2. Applications.

The applications by the former Tenant dated 16th October 2023 and 5th November 2023 stated that she considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. They advised that the installations in the Property for the supply of water, gas, electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order; Any fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and proper working order, any furnishings provided by the Landlord under the tenancy are not capable of being used safely for the purpose for which they are designed and the house does not meet the tolerable standard.

In particular the applications stated that the work that needed to be carried out was as follows:

- 2.1 No gas or electric certificate.
- 2.2 The oven and stove trips the mains when in use.
- 2.3 The bath is leaking onto wiring in the downstairs toilet.
- 2.4 the plug is sparking and
- 2.5 the integrated oven trips the mains.

3. Notice of Acceptance.

On 16th February 2024, Jacqui Taylor, as Convenor of the First- tier Tribunal (Housing and Property Chamber), signed the Notice of Acceptance which stated that she had considered the application, comprising documents received between 17th October 2023 and 29th January 2024 and she referred the applications under Section 22 (1) of the Act to a Tribunal.

4. Direction.

4.1 The Tribunal issued a Direction dated 3rd October 2024 which directed the Landlord to provide the Tribunal with a valid and compliant EICR Certificate and Gas Safety Record by 20th October 2024.

4.2 The Landlord sent the Tribunal photographs of the following documents:

4.2.1 Gas Safety Record dated 17th August 2023 prepared by Gas Alert Services which confirmed that the gas installations were satisfactory and that the next gas safety report was due before 17th August 2024.

4.2.2 EICR report dated 10th October 2023 prepared by T Grimason on behalf of T G Electrical which confirmed that the electrical installation was in a

satisfactory condition.

5. Inspection.

The Tribunal attended at the Property at 10.00 am on 25th October 2024.

The Respondent opened the door to the Tribunal and advised that he resided in the property and it was not let. He advised that he had assisted the Tribunal by providing copies of the EICR and Gas safety Record, referred to at paragraph 4.2 above. He also advised that he would not attend the hearing that had been scheduled to be held at The Glasgow Tribunal Centre at 11.45.

6. The Hearing.

As the Respondent had advised that he would not be attending the hearing that had been scheduled to be held at The Glasgow Tribunal Centre at 11.45 the Tribunal cancelled the hearing.

7. Decision.

The Tribunal acknowledged that the EICR and Gas Safety Record predated the former Tenant's complaints and confirmed that the gas and electrical installations were in a satisfactory condition. The Tribunal also acknowledged that the Respondent stated that he resided in the Property and it was not let. The Tribunal accepted the position and dismissed the applications.

The decision of the Tribunal was unanimous.

8. A landlord, tenant or third party applicant 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 appeal is abandoned or so determined.

Jacqueline Taylor

Signed

Chairperson

Date: 25th October 2024