

Housing and Property Chamber  
First-tier Tribunal for Scotland



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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24(1)**

**Chamber Ref: FTS/HPC/RP/24/0778**

**Property at 14 Thurso Crescent, Dundee, DD2 4AY ("the Property")**

**Land Register Number: ANG14634**

**The Parties:-**

**Miss Carol Thomson, 14 Thurso Crescent, Dundee, DD2 4AY  
("the Tenant")**

**Mr Alan Doyle and Mrs Sharon Doyle, 19 Priorland, Glencarse, Perth, PH2 7UQ  
("the Landlords")**

**Mr Avey Mohammed, A&S Properties, 7 County Place, Perth PH2 8EE  
("the Landlords' representative")**

**Tribunal Members:**

**Gillian Buchanan (Chair) and Greig Adams (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 Landlords have complied with the duty imposed by Section 14(1)(b) in relation to the Property, and taking account of the documentary and oral evidence given by the parties, determined that the Landlords have failed to comply with the duty imposed by Section 14(1)(b) of the Act.**

**Background**

1. By application comprising various documents received 16 February and 25 April 2024 the Tenant applied to 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 stated that the Tenant considered that the Landlords had failed to comply with their duty to ensure that the Property meets the repairing standard and in particular that the Landlords had failed to ensure that:-

- (a) The house is wind and watertight and in all other respects reasonably fit for human habitation.
  - (b) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
  - (c) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
  - (d) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
  - (e) The house meets the tolerable standard.
3. By letter dated 8 May 2024 a Legal Member of the tribunal with delegated powers of the Chamber President intimated a decision to refer the application under Section 22(1) of the Act to a tribunal.
  4. The tribunal served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Tenant and the Landlords.
  5. Following service of the Notice of Referral the tribunal received the following additional substantive written representations from parties:-
    - Emails from Landlords' representative dated 20 August 2024 with attachments;
  6. The tribunal, comprising Miss Gillian Buchanan, Chairperson and Legal Member and Mr Grieg Adams, Ordinary Member, attempted to inspect the Property on the morning of 4 September 2024.
  7. The Tenant emailed the tribunal on the morning of the inspection to advise she would not be attending due to illness. She said she was happy for the inspection to proceed in her absence. She said "The landlord has my key....". By email dated 4 September 2024 the Landlord's representative denied having a key to the Property saying it had previously been returned.
  8. The Landlords' representative, Mr Avey Mohammed, was in attendance along with his son, Mr Asim Mohammed. The Landlords did not attend. Mr Avey Mohammed stated he did not have a key to give access to the Property. He said the key had previously been picked up from the Tenant's Mum in January 2024 and had been handed back.
  9. The tribunal could not therefore inspect the Property other than a cursory look from the exterior.

## Hearing

10. Following the attempted inspection of the Property the tribunal held a hearing at Endeavour House, 1 Greenmarket, Dundee, DD1 4QB on 4 September 2024. The Tenant did not attend the Hearing. The Landlords' representative, Mr Avey Mohammed, attended the Hearing along with his son (then introduced as his Assistant), Mr Asim Mohammed. The Landlords were not present.

11. At the Hearing Mr Mohammed Snr, for the Landlords made the following oral representations in response to questions from the tribunal:-
- i. With regard to the Landlords' insurance claim relative to the flood, Mr Mohammed stated that the Tenant reported the incident on the Saturday morning immediately after the flood occurred and he had a plumber out to the Property within 45 minutes. It was identified that the flexi-hose on the bath connector was disintegrating and it was repaired by the plumber. The Fire Brigade had also been called out as the Tenant was concerned about water in the electrics and both the water and electric supplies had been turned off.
  - ii. The flood caused damage principally to the lounge ceiling and floors but also to part of the hall.
  - iii. The Landlords' insurers were informed and two quotations are required for the remedial works. There were access issues at that time. The Tenant had changed the locks at some point without consent. Accordingly, the contractor required to collect the keys.
  - iv. The rooms within the Property require to be emptied for the necessary works to be carried out. There is no cover for re-housing the Tenant under the policy. The Tenant requires to vacate the Property. Her belongings are still there.
  - v. The insurance claim is in limbo. The insurers want the assessors out to obtain more detail of what is damaged and require a second quotation for remedial works be obtained. The insurers are dealing directly with the Landlords.
  - vi. The Property is presently uninhabitable as water is through the electrics. A meeting had been scheduled to take place with the Dundee City Council and the Tenant on 15<sup>th</sup> May 2024. That meeting was cancelled. Mr Mohammed subsequently emailed asking for dates and times to re-schedule.
  - vii. The Landlords want to sell the Property. They instructed their lawyers in April to issue a Notice to Leave. That has been done. There are rent arrears of £3000. A tribunal application has been lodged.
  - viii. The Tenant has cancelled three appointments for Stewart Cuthill of Dundee City Council to attend.
  - ix. Mr Mohammed wrote in June regarding the Gas Safety Certificate due for renewal. The Tenant didn't respond. Accordingly, the gas engineer attended and capped the supply at the meter. He did not require to go inside the Property for that purpose. Accordingly there is presently no functioning heating within the Property and no functioning boiler within the Property.
  - x. The quotation of BuildTech Services Limited dated 26 January 2024 correctly specifies the extent of the flood damage and remedial works required. Mr Mohammed confirmed that it would be the Landlords' intention to undertake these works prior to selling whether or not authorised by the insurers.
  - xi. The Landlords have no alternative accommodation to move the Tenant into.

- xii. Neighbours have advised that that the Tenant has not been living at the Property for over a year.
- xiii. With regard to the shower screen that would be replaced as part of the remedial works.
- xiv. With regard to the Tenant's complaint about the front door, the contractors found nothing wrong with the front door.
- xv. The bathroom window was fixed in October or November 2023. The mechanism was repaired.
- xvi. With regard to keys for the windows, these were present when the Tenant took entry to the Property and Mr Mohammed does not know what has happened to them.
- xvii. The Tenant complained about the boiler dropping pressure. Mr Mohammed produced a Gas Safety Record dated 22<sup>nd</sup> June 2023. There was then no carbon monoxide alarm fitted. Mr Mohammed would have told the contractor to fit one. The tribunal asked if he had any invoice for the installation of the carbon monoxide detector. He said he would need to check that. The Gas Safety Record was prepared by GS Plumbing and Heating, Mollison Street, Dundee.
- xviii. Mr Mohammed agreed that, as it presently stands, the Property does not meet the Repairing Standard.
- xix. The Tenant's non-attendance at the inspection that morning simply reflected repetitive behaviour on her part of cancelling appointments.
- xx. The Property was leased on an unfurnished basis.
- xxi. Mr Mohammed said the Landlords cannot to get on with repairs if the Tenant will not have a meeting.

Subsequent to the Hearing the tribunal was copied into exchanges of emails between the Tenant and the Landlords' representative dated 5 September 2024.

### **Summary of the issues**

12. The issues to be determined are:-

- (a) Whether the house is wind and watertight and in all other respects reasonably fit for human habitation having particular regard to the flood damage previously caused to the bathroom, lounge and hallway.
- (b) Whether the windows open, close and lock correctly and are in a reasonable state of repair and in proper working order.
- (c) Whether the front door opens, closes and locks correctly and is in a reasonable state of repair and in proper working order.
- (d) Whether the shower screen is in a reasonable state of repair and in proper working order.

- (e) Whether the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
- (f) Whether the Property meets the tolerable standard.

### **Findings of fact**

13. The tribunal finds the following facts to be established meantime:-

- (a) The Landlords are the heritable proprietors of the Property.
- (b) The Property is leased by the Landlords to the Tenant in terms of a Private Residential Tenancy Agreement.
- (c) It is the Landlord's responsibility to ensure that the Property meets the Repairing Standard under the Housing (Scotland) Act 2006.
- (d) There is no current Gas Safety Record evidencing that the installations in the Property for the supply of gas are in a reasonable state of repair and in proper working order.
- (e) There are extensive works required to the Property to remedy flood damage previously caused in January 2024.
- (f) These works are detailed within the quotation of BuildTech Services Limited dated 26 January 2024.
- (g) The Property does not meet the Repairing Standard.

### **Reasons for the Decision**

- 14. On the day of the scheduled inspection of the Property by the tribunal, access was not given by either the Landlords or the Tenant.
- 15. Access to the Property is still required by the tribunal and an inspection will be rescheduled in order that the tribunal can determine all issues of complaint contained within the application.
- 16. However, the Landlords' representative accepted that the Property does not currently meet the Repairing Standard.
- 17. The Landlords' representative accepted that extensive works are required to the Property to remedy flood damage previously caused in January 2024 and these works are detailed within the quotation of BuildTech Services Limited dated 26 January 2024.
- 18. Additionally, the tribunal had sight of a Gas Safety Record provided by the Landlords' representative, Mr Avey Mohammed, and prepared by GS Plumbing and Heating dated 22 June 2023. That Gas Safety Record is out of date and also disclosed there to be no carbon monoxide alarm fitted.

### **Decision**

- 19. To reschedule an inspection of the Property.

20. Meantime, the tribunal determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Act.
21. The tribunal proceeded to make a Repairing Standard Enforcement Order (RSEO) as required by section 24(1).
22. The decision of the tribunal was unanimous.

### **Right of Appeal**

23. **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 tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

### **Effect of section 63**

24. **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.**

Signed G Buchanan

Date : 24 October 2024

Legal Member and Chairperson