

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 Ref: FTS/HPC/RP/24/0450

Re:

Property at 233, Cedar Road, Cumbernauld, G67 3AT registered in the Registers of Scotland under Title Number DMB55006 (“the Property”)

The Parties:

Colin James Lang, Lang Properties, having an address sometime at 38g Townhead, Kirkintilloch and presently at 3, Hayston Road, Kirkintilloch G66 1BW (“the Landlord”) per his agents Coda Estates Limited, 2-4 Heath Avenue, Lenzie, G66 4LG (“the Landlord’s Representatives”)

Tribunal Members:

Karen Moore (Chairperson) and Kingsley Bruce (Ordinary and Surveyor Member)

Decision of the Tribunal

The Tribunal determined that the Landlord has not failed to comply with the duty imposed on him by Section 14(1) (b) of the Act in respect that the Property meets the Repairing Standard in respect of Sections 13(1) (a), 13 (1)(b) and 13(1) (c) of the Act.

Background

1. By application received between 29 January 2024 and 1 February 2024, (“the Application”), the then tenant’s agent applied on his behalf 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 Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1)(a), 13(1)(b) and 13(1) (c) of the Act.
2. The Application noted that there is mould and dampness throughout the Property, that the kitchen window is smashed and boarded up and that the hall and bathroom lights require to be repaired.
3. The Application was referred to the Tribunal. An Inspection of the Property and a Hearing were fixed for 31 May 2024 and intimated to the Parties. By email dated 18 April 2024, the then tenant’s agent advised the Tribunal that the tenant had had to vacate the Property and had been rehoused by the local authority. The Tribunal issue a Minute of Continuation in terms of Schedule 2 to the Act.

Inspection and Hearing

4. The Tribunal and Ms. Cook and Mrs. Kelly of the Landlord’s Representatives attended at the Property for the Inspection on 31 May 2024 and also at the Hearing. The Tribunal was unable to inspect the Property properly in respect of the specific matters complained of in the Application as works were underway at the Property, the extent and nature of which prevented the Inspection to proceed.
5. The Tribunal took the view that, as works were being carried out and as the Property was unoccupied, the appropriate course of action was to adjourn both the Inspection and the Hearing to a later date to allow the works to be completed. The Tribunal issued a Direction requesting a report on the heating.
6. The adjourned Inspection and Hearing took place on 21 November 2024. Mrs. Kelly of the Landlord’s Representatives attended the adjourned Inspection and Hearing.
7. At the adjourned Inspection, the Tribunal noted that the works complained of in the Application had been completed. Meter readings taken by the Tribunal showed dampness at some points. However, the Tribunal accepted that, as the Property had been vacant and unheated since the

beginning of the year, and, had recently been painted, the cold atmosphere and wet paint could have contributed to the findings.

8. At the Hearing, Mrs. Kelly advised that a new Energy Performance Certificate with an improved performance rating had been obtained. Mrs. Kelly submitted this to the Tribunal following the Hearing. Also following the Hearing, Mrs. Kelly submitted emails from the heating engineer who carried out work at the Property which detailed the work undertaken.

Summary of the Issues

9. The issue to be determined by the Tribunal is whether or not the Property meets the Repairing Standard in respect of Sections 13(1) (a), 13(1)(b) and 13(1) (c) of the Act at the date of the adjourned Inspection and Hearing.

Findings of Fact

10. From the adjourned Inspection and the Hearing, the Tribunal found the following in respect of matters specifically complained of in the Application:
 - i) The Property is a ground floor flat within the block known as 233- 253 Cedar Road, Cumbernauld;
 - ii) The heating in the Property has been upgraded;
 - iii) The windows in the Property have been repaired or replaced;
 - iv) New carpets or new flooring has been provided throughout the Property;
 - v) The hall and bathroom lights have been replaced and
 - vi) The Property is reasonably fit for human habitation.

Decision of the Tribunal and reasons for the decision.

11. 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 adjourned Inspection and Hearing the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
12. In respect of the complaints in terms of Section 13 (1) (b) of the Act that the Landlord has failed to ensure that the structure of the house is in a reasonable state of repair, Tribunal found that there is no evidence the structure of the house is not in a reasonable state of repair and so at the date of the adjourned Inspection and Hearing the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

13. In respect of the complaint in terms of Section 13 (1) (c) of the Act that the Landlord has failed to ensure that 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, as there is no evidence of this, the Tribunal found that the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

14. The decision is unanimous.

Signed

Karen Moore,
Chairperson

Date 21 November 2024