



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Case reference FTS/HPC/RP/24/4891

Parties

Miss Natasha Thomson (Applicant)

Mr Drew Wesley (Respondent)

2 Sherwood Drive, Bonnyrigg, EH19 3LN (House)

Tribunal Member: Jacqui Taylor (Legal Member)

The Tribunal rejects the application by the Applicant dated 16th August 2024, being an application under section 22(1) of the Housing (Scotland) Act 2006 requesting the Tribunal to determine if the property complies with the Repairing Standard.

1. The Application.

The Applicant made an application to the Tribunal under section 22(1) of the Housing (Scotland) Act 2006 requesting the Tribunal to determine if the property complies with the Repairing Standard. The Application was dated 16th August 2024 and it was received by the Tribunal on 24th October 2024.

2. The Tribunal administration sent an email to the Applicant dated 21st November 2024 in the following terms:

'Your application has been further reviewed by a legal member of the First-tier Tribunal with delegated powers of the Chamber President who has raised the following matters The contents of your email of 17 October are acknowledged It is noted from your most recent email that you indicate that you have now removed from the property. if you are no longer a tenant in the property at 2 Sherwood Drive then it is not possible for you to lodge an application seeking to enforce the repairing standard. Such applications can only be lodged by tenants of a property or by a local authority in whose area the property is situated Can you please confirm that you are no longer resident at 2 Sherwood Drive

Bonnyrigg and confirm that you wish this application to be withdrawn on the basis that it is not competent. Please respond to this letter within the next two weeks . Upon receipt of the above information, a final decision can then be taken on whether the applications are valid and whether they should be accepted and referred to the tribunal for full determination. If you fail to respond to this letter then the tribunal may reject your application. You should be aware that the Tribunal has the power to reject applications on grounds set out in rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.'

3. The Applicant sent the Tribunal an email dated 21st November 2024 in the following terms:

'Yes we no longer live at the address but we have recently found out the house is up for rent and no repairs have been done, also we were unlawfully evicted as he was evicting us to sell. He also chucked our garden furniture and some things out that he agreed we could still collect. I would like to take this further. What is your advice please?'

4. The Law.

Section 22 (1) of the Housing (Scotland) Act 2006 states that: "A tenant may apply to the First –tier Tribunal for determination of whether the landlord has failed to comply with the duty imposed by section 14 (1) (b)." The duty imposed by section 14 is for a landlord to ensure that the house meets the repairing standard at all times during the tenancy.

5. Decision.

The Tribunal have good reason to believe that it would not be appropriate to accept the application and rejects the application in terms of rule 8 (1)(c) of the Tribunal Rules.

6. Reasons for the Decision:

The Chamber President has no discretion in whether or not to accept an application from a person or persons who are no longer tenants of a relevant property. The Applicant is no longer a tenant and was not a tenant on the date the application was submitted to the Tribunal. An application requires to be submitted by a tenant not a former tenant.

7. **Appeal**

In terms of Section 46 of the Tribunal (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 First-tier Tribunal. That party must

seek permission to appeal within 30 days of the date the decision was sent to

J Taylor

them ,

.....Legal Member Date: 6th December 2024