

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

Chamber Ref: FTS/HPC/RP/24/5461

Property: 39 Barnton Park Crescent, Edinburgh, EH4 6ER ('The House')

The Parties: -

Lawrence Skilling, 30 Landsdown Place, Lewes, East Sussex, BN7 2JU ("the landlord")

Alex Jones, Catherine Jones formerly of 39 Barnton Park Crescent, Edinburgh, EH4 6ER ("the tenant")

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') having made such enquiries as are fit for the purpose of determining whether the landlord has complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (the "Act") in relation to the house concerned determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.

The decision was unanimous.

The Tribunal consisted of: -

Mary-Claire Kelly, Chairing and Legal Member

Sara Hesp , Ordinary Member (surveyor)

Background

1. By application submitted on 27 November 2024, the tenant applied to the First-tier Tribunal (Housing and Property Chamber) for a determination of whether the landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.
2. The application stated the landlord had failed to comply with the duty to ensure that the house meets the repairing standard and that the landlord had failed to ensure compliance with the section 13(1) of the Act.
3. The application contained copy email correspondence between Catherine Jones and the letting agents, Edinburgh Letting Centre which specified that the said failure was established as the following work needed to be carried out:
 - *Mould and dampness in the back bedroom, bedroom near the front door and shower room*
 - *Toilet not working*
 - *No light in the bedroom*
 - *Crumbling light fitting in dining room*
 - *Livingroom pendant light not working*
 - *Tiles missing in the shower room/dangerous edges/slugs coming in*
 - *Bathroom door not working*
 - *Cupboard above the oven broken*
 - *Patio door not working*
4. The application also covers the functioning of the smoke and heat detectors within the property.
5. The tenant intimated that the tenancy came to an end on 9 December 2024. The application was continued in terms of Schedule 2 Paragraph 7(2) of the Act as certain matters requiring repair may pose health and safety issues for future tenants. Notices of Referral to a Tribunal under section 23(1) of the Act were sent to parties on 17 December 2024.
6. Prior to the hearing the landlord submitted a report from a Damp Specialist, Valentine Property Services Ltd dated 23 January 2025.

Hearing and Inspection

7. The Tribunal inspected the house on the morning of 17 June 2025. The landlord's daughter who is currently residing in the property was present. Alex Priestly, the landlord's representative from Edinburgh Letting Centre was also in attendance.
8. Photographs were taken by the Tribunal during the inspection. Copies of the photographs are attached as a schedule to this statement of decision.
9. A hearing took place at George House, Edinburgh at 11.45 am. Mr Priestly attended on behalf of the landlord.
10. At the inspection and hearing the Tribunal considered each of the issues specified in the application.
11. Lights – no light in the bedroom, pendant light in the dining area, pendant light in the living area:- The Tribunal observed that there was no typical light source in the front left bedroom. The light was positioned under the pelmet over the bed but it was not working. One of the spotlights adjacent to the fireplace in the living room was not working. However both pendants in the living room and dining area appeared to be working properly and in a reasonable condition.
12. Toilet: The Tribunal observed at the inspection that both toilets in the property were in proper working order.
13. Mould and dampness in the front bedrooms and shower room: The Tribunal found no evidence of penetrating or rising damp within the property. The Damp Specialist report that had been submitted referred to visible mould in walls in a bedroom due to condensation. Although there was a musty odour in one of the bedrooms, no evidence of condensation dampness was found at the inspection.
14. Tiles missing in the shower room/dangerous edges/slugs coming in: The tiles and shower room fittings were observed to be in a reasonable condition
15. Bathroom door not working: It was observed at the inspection that the bathroom door was not functioning. It was not possible to close and fasten the door properly and the lock was not functioning.
16. Patio door: At the time of the inspection the patio doors were in a reasonable state of repair and proper working order.
17. Cupboard above the oven: A repair had been carried out to the cupboard door above the oven which had been sealed and no longer opened.

18. Smoke and heat detectors: It was observed at the inspection that the house had been fitted with individual functioning smoke and heat detectors in the living room, hall, dining room and kitchen, but they were not interlinked

Summary of the issues

19. The issue to be determined is whether the house meets the repairing standard as laid down in section 14 of the Act and whether the landlord has complied with the duty imposed by sections 13(1) of the Act.

Findings in fact: -

20. The tribunal find the following facts to be established: -

- a. The landlord and tenant entered into a tenancy agreement with a commencement date of 29 July 2024.
- b. The tenancy ended in December 2024.
- c. The property is a 3 bedroom semi-detached property with gardens to the front and rear.
- d. The right hand front bedroom does not have a functioning light source.
- e. One of the spotlights adjacent to the fireplace is not functioning.
- f. The landlord has not produced a satisfactory Electrical Installation Condition Report for the house.
- g. The house does not have interlinked smoke and heat detectors that comply with Scottish government regulation.
- h. The bathroom door does not fasten and the lock does not work.
- i. There was no evidence of mould or dampness caused by condensation, rising or penetrating damp throughout the property.
- j. The shower room tiles and fittings are in a reasonable condition and proper working order.
- k. The patio doors are in a reasonable condition and proper working order.
- l. The 2 toilets in the property are in a reasonable condition and proper working order.

Reasons for the Decision

21. The Tribunal determined the application having regard to the bundle of papers which had been available prior to the hearing, the inspection and the oral representations at the hearing.
22. The Tribunal was only able to consider those items which formed part of the intimated application.
23. The Tribunal noted that a repair had been carried out to the cupboard above the kitchen which addressed the issue which had been raised in the application. The Tribunal found no evidence of dampness or mould growth in the property. The Tribunal found no breach of the repairing standard in respect of the tiles and fittings in the shower room, the patio doors and the toilet. These items were all in a reasonable state of repair and proper working order.
24. The Tribunal observed at the inspection that a repair is required to place the bathroom door in proper working order.
25. The Tribunal observed that there was no working light fitting in the front right bedroom. The other light fittings were original from the time the property was built and it was noted that one of the spotlights in the living area was not working. The Tribunal considered that a repair required to be carried out to provide a functioning light source in the front right bedroom and an EICR is required to demonstrate that the electrics in the property are in a reasonable condition. If any items on the report are noted as requiring further investigation or action the landlord will require to demonstrate that appropriate action has been taken. Portable Appliance Testing will be required as part of the EICR.
26. It was noted at the inspection that the smoke and heat detectors were not interlinked and did not comply with statutory guidance.
27. The Tribunal considered that 8 weeks was a reasonable period for the repairs to be completed and the appropriate documentation submitted.

Observation

28. It was observed at the inspection that the light in the shower room had exposed wiring and had been repaired by the landlord's daughter. This item should be checked for safety by a suitably qualified electrician and repaired as necessary.

29. No carbon monoxide detector was observed in the property. A carbon monoxide detector requires to be installed within the property in compliance with Scottish government regulations on carbon monoxide detectors.

Decision

The tribunal determined that the Landlord has failed to comply with the duty imposed by section 14(1)(b) of the Act. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

Right of Appeal

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.

MC Kelly
Chairperson:

Date: 25 June 2025