



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

STATEMENT OF DECISION of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 24 (1) of the Housing (Scotland) Act 2006

Case reference FTS/HPC/RT/25/0915

Parties

Mrs Amanda McGonigal (Tenant)

Falkirk Council - Private Sector Team (Applicant)

Ms Karen Pelosi (Respondent)

18 Woodburn Avenue, Redding, Falkirk, FK2 9XW (House)

Land Register Title number STG14429

Tribunal members

James Bauld (Legal Member) and Robert Buchan (Ordinary Member)

Background

1. By application initially lodged on 3 March 2025, the applicants as a third party made an application to the First Tier Tribunal (Housing and Property Chamber) indicating that they believed that the respondent who is the landlord was failing to comply with the duty imposed on her by section 14 (1) (b) of the Housing Scotland Act 2006 (hereinafter referred to as "the 2006 Act"). They complained that the property did not meet the repairing standard set out in the 2006 Act.
2. In the application, they had raised a number of issues. They complained in the application that there was no electrical safety certificate (or more accurately an Electrical Installation Condition Report ("EICR")) for the property, nor was there an up to date Gas Safety certificate and that there was no evidence that

fire and smoke alarms met meet the necessary requirements.

3. On 12 March 2025 the tribunal determined that the application could be referred to the tribunal for determination. The tribunal issued a Direction on the same date requiring the respondent to provide copies of an up to date Electrical Installation Condition Report ("EICR")) for the property, an up to date Gas Safety certificate and evidence that fire and smoke alarms met the necessary requirements. No response was received to that direction.
4. An inspection and hearing were subsequently arranged to take place on 6 June 2025 and appropriate intimation of the time and date was sent to all parties.

The inspection

5. The tribunal members attended at the property on 6 June 2025 at 10.00 a.m. to carry out an inspection. Access could not be obtained. A report of what was observed at the inspection (including a photograph) taken by the ordinary member of the tribunal is attached to this decision

The hearing

6. The hearing took place on 6 June 2025 at 11.45 a.m. by telephone conference call..
7. At the Hearing the tenant was not present. The third party applicants were represented by Mr Craig Beatt, their Private Sector Officer (Enforcement and liaison). The landlord was not present but represented by Mr. Malcom Macaskill, who she had nominated as her representative.
8. Mr MacAskill indicated that the landlord has been seriously ill for the past 13 months and has been hospitalised for the last few months. Her husband and son have also had health issues. She is aware of the problems at the property but the tenant has been difficult and has refused to comply with any attempts made by the landlord to gain access to carry out inspections and repairs.
9. Mr MacAskill indicated that the landlord would comply with any order made by the tribunal and he was also aware of the possibility of applying to the tribunal to seek assistance with enforcing the landlord's statutory right of entry.
10. Mr. Beatt for the third party applicant indicated that he wished the tribunal to make an order in terms of the direction previously issued, namely to order the landlord to produce the relevant safety certificates.
11. Mr. MacAskill indicated he had no objection to such an order being made.
12. Parties agreed that the order should be made and that the landlord should be given a period of four months to comply with the order which should also allow

time for the landlord to pursue the right of entry application

13. The tribunal thereafter concluded the hearing and thanked the parties for their attendance and assistance. The tribunal indicated it would issue its decision which would include an appropriate order relating to the outstanding works which were required and which appeared to be a matter of agreement between the parties.

Observations and findings in fact

14. The property comprises a semi-detached house. Originally built on behalf of the local authority and assumed to be of non-traditional construction, the property is approximately 65 years old and is now in private ownership.
15. Externally the property appears neglected. The garden is significantly unkempt and overgrown. A climbing plant obscures the front corner of the property and has reached the eaves, guttering and roof. Items of disrepair were noted including broken draught proofing around the front door and a broken overflow or condensate pipe above the electricity meter on the front wall. Curtains were drawn across all of the windows that were seen. The property is unmodernised compared to neighbouring properties many of which have had external insulation added. The adjoining half of the building has had its slated roof replaced with tiles. The tribunal was not able to inspect the interior of the property.
16. The property is assumed to be occupied under and in terms of a private residential tenancy governed by the Private Housing (Tenancies) (Scotland) Act 2016 between the tenant and the respondent
17. The property requires to comply with the repairing standard as set out in the Housing (Scotland) Act 2006 as amended

Discussion and reasons for decision.

18. The tribunal carefully considered the evidence which had been obtained at the inspection, the information contained in the tribunal papers and the evidence given by the representatives at the hearing.
19. The tribunal has concluded that this property does not currently meet the repairing standard set out in the legislation. It requires a number of works to bring it up to standard. The Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006.
20. The tribunal accordingly is required to make a repairing standard enforcement order requiring the landlord to undertake a number of works.

21. The required works will be as follows

- To instruct a SELECT, NICEIC or NAPIT registered electrician to carry out a full inspection of the electrical wiring, installations and apparatus throughout the Property and to repair or renew any parts which are identified in said report to be of Category C1 or C2 to ensure the installation and apparatus is fully functioning and meets current regulatory standards and provide an Electrical Installation Condition Report (EICR) to the tribunal confirming that the installations, apparatus and wiring meet current regulatory standards
- To provide an up to date Gas Safety Certificate for the house from a Gas Safe Registered Engineer addressing the working order, condition and safety of any gas installation and gas appliances in the house; and the certificate should also address whether there is a carbon monoxide alarm which complies with the statutory guidance within the house.
- ~~To provide Evidence of interlinked fire detection devices and a heat alarm in the house, for example an invoice for installation~~

22. The appropriate repairing standard enforcement order is attached to this decision.

23. The decision of the tribunal is unanimous.

C Brannigan

J Bauld

_____ (Witness) / _____ (Legal Member)

CITLOE BRANNIGAN (Witness Name in full) 18 June 2025 (Date)

Photograph of 18 Woodburn Avenue, Falkirk, FK2 9XW
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