



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/22/1512**

**Re: Property at 35 Llynallan Road, Shotts, ML7 5TW (“the Property”)**

**Parties:**

**Mr Gabor Toth, 24 Ladeside Drive, Blackburn, EH47 7JS (“the Applicant”)**

**Ms Helen Brady, 3 Blackburn Hall Holdings, Blackburn, EH47 7AB (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member)**

**Decision (in absence of the Applicant)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

- Background

This is an application for an order for payment of damages in relation to the Applicant’s occupation of the Property in terms of a private residential tenancy agreement with the Respondent. It called for a case management discussion (‘CMD’) at 2pm on 19 October 2022, by teleconference. The Respondent was represented on the call by Mr Bryan of Sneddon Morrison, solicitors and also phoned in in person. The Applicant did not phone in to the conference and was not represented. The commencement of the CMD was delayed for 10 minutes to allow for any technical difficulty he may have been experiencing, but there remained no contact from him.

Notification of the date and time of the CMD was given to the Applicant by letter dated 1 September 2022, sent to the address he had given on his application form. The Tribunal was satisfied that he was aware of the CMD but had chosen not to attend. On that basis, it considered it fair to proceed in his absence.

- Findings in Fact

1. The Applicant rented the Property from the Respondent under a private residential tenancy agreement with a start date of 14 July 2020.
2. The tenancy agreement is in the model form and makes no specific mention of the landlord undertaking to maintain a minimum efficiency level of the heating system for the Property.
3. The Respondent did not quote a figure for average energy costs for the Property to the Applicant in advance of his executing the tenancy agreement.
4. On 17 February 2022, the First-tier Tribunal issued a Minute of Abandonment stating that the Respondent, “has complied insofar as possible with the Repairing Standard. ... the boiler is in proper working order.” (Tribunal Ref: FTS/HPC/RP/21/0212.)
5. An Energy Performance Certificate (‘EPC’) for the Property dated 8 July 2015 rated the Property at Band C for energy efficiency.
6. A further EPC for the Property dated 24 February 2021 also rated the Property at Band C for energy efficiency.

- Reasons for Decision

7. The Applicant has claimed that the Respondent is liable to pay damages to him for excessively high energy costs while he was living at the Property and for associated stress, inconvenience, loss of enjoyment and removal costs. It

is not clear from the application what the legal basis of this claim is (i.e. whether there is said to have been a breach of the terms of the tenancy agreement, or whether some other duty is alleged to have been contravened). Even attempting, in recognition that the Applicant is not legally-qualified, to take the Applicant's case at its highest, the Tribunal must conclude that there is no basis for the claim.

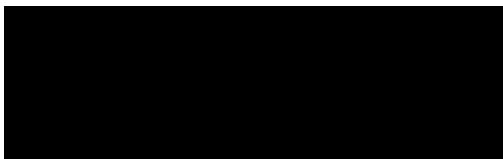
8. Insofar as the contract is concerned, there is nothing in it guaranteeing a particular level of energy efficiency at the Property. On the Applicant's own submission, he requested an estimate of the energy costs he would incur as a tenant of the Property from the Respondent, and she did not give him one. The Respondent states that she was not able to do so for various good reasons; but it does not matter what the reason was. In the end, it is undisputed between the parties that no estimate was given. There is therefore no basis upon which the Tribunal could conclude that any contractual obligation was breached by the Respondent, or that the energy use at the Property was misrepresented.
9. While it is not absolutely clear what the Applicant is alleging was the cause of any loss he may have suffered, there is considerable focus in the application on the suitability of the boiler at the Property. This point has already been ruled on by the Tribunal, as reported at para.4 above. The boiler was found to be in working order and compliant with the Repairing Standard.
10. On the wider question of energy performance, the EPCs produced do not indicate that the Property is below any reasonable standard; indeed they rate the Property as higher than the Scottish average.
11. There is therefore no basis revealed in the application for any award of damages and the application falls to be refused.

- Decision

**Refused.**

## Right of 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 them.

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Legal Member/Chair

19/10/2022

Date