



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

Statement of Decision under section 24(1) of the Housing (Scotland) Act 2006 (“the 2006 Act”)

Chamber Ref: FTS/HPC/RP/20/0674

Re: Property at Flat 4, Bothwell House, The Furlongs, Hamilton ML3 0DQ (“the Property”)

The Parties:-

Mr Anthony Murphy, 2 Chateau Grove, Hamilton ML3 7DS (“the Landlord”)

Mr Robin Brown, Flat 4, Bothwell House, The Furlongs, Hamilton ML3 0DQ (“the Tenant”)

Tribunal Members:

Gabrielle Miller (Chair and legal member) and Mike Links (Surveyor and Ordinary member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) in relation to the Property, determined that the Landlord had complied with the duty imposed by Section 14(1)(b) of the Act.

Background

1. An Application was made to the First-tier Tribunal for Scotland under section 22 of the Housing Scotland Act 2006 to determine if the Respondent had failed in their duty under section 14(1) of the Act to meet the Repairing Standard. The Application was dated 25th February 2020.

2. The application by the Tenant stated that it was considered that the Landlord had failed to comply with his duty to ensure that the Property met the Repairing Standard. The application stated that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; that the installations in the Property for the supply of water, gas, electricity and for sanitation, space heating and water were not in a reasonable state of repair and in proper working order; that any fixtures, fittings and appliance provided by the Landlord under the tenancy were not in a reasonable state of repair and in proper working order and that the Property did not meet the tolerable standard. In particular, the complaints consisted of:-
 - a) The living room window does not open;
 - b) There is no heating;
 - c) No lights or light switch for the living room; and
 - d) No hot water since 20th December 2019.
3. Under normal circumstances, the Tribunal would carry out an inspection of the Property. The purpose of the inspection is to ascertain the position as it relates to the application. The inspection is undertaken prior to a hearing to determine if the Property has breached the Repairing Standard.
4. Unfortunately, this has not been possible, due to the continuing effects of the COVID-19 pandemic. In the circumstances, Case Management Discussions (“CMD”) were order to discuss procedure in the case.
5. A CMD was held on 12th January 2021 at 2pm by teleconferencing. The Tenant represented himself. The Landlord did not attend. The Tenant told the Tribunal that he had not had contact with the Landlord since December 2019. All the repairs were still outstanding at the date of the CMD. The Tribunal issued a direction which was to be complied with by 9th March 2021.
6. A CMD was held on 16th March 2021 at 10am by teleconferencing. The Tenant represented himself. The Landlord did not attend. The Tenant informed the Tribunal about the items listed in his application. This was namely :-
 - a. The Living room window does not open.
The Tenant confirmed that this had now been fixed to his satisfaction and it is no longer an issue.
 - b. There was no heating.
The Tenant confirmed that both the living room and bedroom heaters have been replaced and he is satisfied with the replacement. He confirmed that this is no longer an issue. However, the heater in the hall had not been replaced and was still broken. He was also not satisfied that the original heaters

have not been removed and are taking up wall space. He would like a heater put into the kitchen though it has never had a heater. The bathroom is too small for a heater;

- c. No lights or switch for living room.
The Tenant confirmed that this had now been fixed to his satisfaction and it is no longer an issue.
- d. No hot water since 20th December 2019.
The Tenant confirmed that this has now been fixed to his satisfaction and it is no longer an issue; The Tenant told the Tribunal that he considered the damp in the Property to be related to the heaters though there has never been a heater in the kitchen. He will consider his position with a further application to the Housing and Property Chamber regarding any other outstanding issues not contained within this application.

- 7. The Tribunal noted that the heater in the hall still required to be replaced and was not satisfied that the EICR was undertaken by a suitably qualified and registered electrician. The Tribunal observed that the Landlord had failed to remove the broken heaters from the living room and bedroom which has caused a great inconvenience to the Tenant. A further CMD was set for 7th May 2021 at 10am by teleconferencing. The Tribunal issued a Direction requiring the Landlord to repair or replace the hall heater, to produce documents evidencing the carrying out of repairs and the existence of certificates.
- 8. A CMD was held on 7th May 2021 at 10 am by teleconferencing. The Tenant and Landlord were both present and represented themselves. The Tenant confirmed that all items had now been repaired to his satisfaction including the hall heater. He also noted that the old radiators had been removed. He now considered that there were no outstanding matters. The Tribunal noted that the updated EICR was undertaken by a suitably qualified and registered electrician. While there were items on it at a 3 this was not an issue for the Tribunal. The Landlord had no further comments to make.

Reasons for the decision

- 9. The Tribunal determined the application having regard to the terms of the application, the written representations received prior to the hearing, the EICR lodged and evidence from the Tenant.
- 10. The Tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the application.

Decision

11. The Tribunal was satisfied that all the points raised in the application had been dealt with by the Landlord and that there were no outstanding issues. The Tribunal was satisfied that the Repairing Standard was met and that no further orders were necessary.

- (a) The Tribunal accordingly determined that the Landlord had complied with the duty imposed by Section 14(1)(b) of the Act.
- (b) The Tribunal did not need to issue any further orders.
- (c) The Tribunal did not need to take any further action.
- (d) The decision of the Tribunal was unanimous.

In terms of section 46 of the Tribunals (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.

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.

G Miller

Gabrielle Miller

Legal Member

7th May 2021

Date