

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision of the Housing and Property Tribunal under Section 24 (1) of the Housing (Scotland) Act 2006 ("the tribunal")

Chamber Ref: FTS/HPC/RP/17/00277

31 Carrick Knowe Road, Edinburgh, EH12 7BQ
("the Property")

The Parties:-

Denise McDougall formerly residing at 31 Carrick Knowe Road, Edinburgh, EH12 7BQ per Civil Legal Assistance Office, Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD
("the former tenant")

Mr Lendrick Gillies, Ms Pauline Winafred Gillies, 28 Vivian Terrace, Edinburgh, EH4 TAN
("the Landlord")

DECISION

The tribunal having made such enquires 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 concerned and taking account of the evidence obtained from the inspection determined that the landlord had not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

Background

1. By application dated 14 July 2017 an application was made by the Civil Legal Assistance Office on behalf of the former tenant of the property to the Housing and Property Chamber First-tier Tribunal for Scotland for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application on behalf of the former tenant stated that the former tenant considered that the landlord had failed to comply with his duty to ensure that the property was wind and water tight and in all other respects reasonably fit for human habitation; that the structure and exterior of the house including drains, gutters and external pipes were in a reasonable state of repair and in proper working order; that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order and that any fixtures, fittings and

appliances provided by the landlord under the tenancy were in a reasonable state of repair and in proper working order. The applicant stated:-

- a. "The kitchen floor has been destroyed by workmen employed by the landlord. The kitchen is unusable. The tenant would be at risk of falling through to the flat below if she used the kitchen.
 - b. The WC soil pipe is blocked and the contents of the toilet are backing up into the shower tray and bath."
3. The former tenant's representative intimated the alleged defects to the landlord by email dated 13 July 2017.
 4. By Minute dated 09 August 2017, a convenor with delegated powers under Section 96 of the Housing (Scotland) Act 2014 referred the application to the Housing and Property Tribunal. On the same date on being advised by the former tenant's representative that the tenancy of the house had been terminated determined that given the alleged defects which if confirmed after inspection would demonstrate the property fell below the repairing standard, it would not be in the public interest to permit any further tenancies until such times as the necessary repairs had been completed. The convenor accordingly issued a Minute of Continuation.
 5. By letter dated 05 September the landlord Mr Lendrick Gillies was given Notice of Referral, inspection and hearing in terms of Schedule 2 Paragraph 1 of the Act. Correspondence addressed to Ms Pauline Gillies, the owner of the property, was subsequently returned by the post office.
 6. The landlord did not respond nor make any written representations to the tribunal.
 7. The tribunal consisted of Graham Harding (Legal Member) and Susan Napier (Ordinary Member). Mr Richard Mill (Legal Member [appraiser]) attended as an observer for appraisal purposes.
 8. The tribunal inspected the property on 11 October 2017. The property was in the course of being decorated by new tenants, Mr Ross and Miss Pearson, who granted access to the tribunal so that the inspection could proceed. Neither the landlord nor Ms Pauline Gillies attended the inspection. The tribunal noted that the kitchen floor was in place and floor coverings had been laid. When walked upon, the floor was stable and there was no movement. The kitchen units were all in place and the kitchen was usable. The WC was clear and when flushed several times, the water drained away quickly and there was no backup into the shower or bath. The new tenants indicated at the inspection that there were some issues with regard to the electrical installations in the property. This did not form part of the former tenant's application. The property had a new smoke detection system and carbon monoxide detector fitted. The ordinary member of the tribunal took several photographs of the property which form the schedule to this decision.
 9. Following the inspection of the property, the tribunal held a hearing at Stirling. No parties attended the hearing.

Summary of the Issues

10. The issues to be determined are whether or not the property meets the repairing standard in terms of Section 14 (1) (b) of the Act. In particular whether the kitchen floor had been destroyed and the kitchen unusable and also whether the WC soil pipe was blocked and the contents of the toilet were backing up in to the shower tray and bath.

Findings of Fact

11. The tribunal finds the following facts to be established:-
 - a. The kitchen floor has been replaced and floor coverings laid. The floor was stable and there was no movement. The kitchen units were all in place and the kitchen was usable.
 - b. The WC was clear and when flushed several times, the water drained away quickly and there was no backup in to the shower or bath.
 - c. The tribunal noted that the new tenants had concerns about the electrical installations in the property.

Reasons for the Decision

12. The tribunal was satisfied that the former tenant's complaints relating to the kitchen floor and the WC had been adequately dealt with by the landlord.

Decision

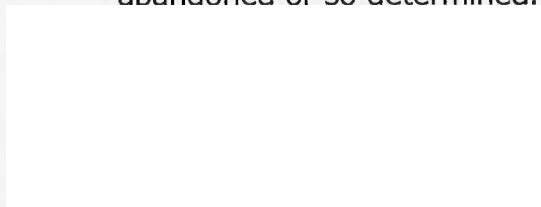
13. The tribunal accordingly determined that the landlord had not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
14. The decision of the tribunal was unanimous.
15. Whilst the new tenants issues with regards to the electrics in the property did not form part of the previous tenant's application, the tribunal would recommend that the landlord has the electrical installations in the property checked and an Electrical Installation Condition Report issued.

Right of Appeal

16. 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 thirty days of the date the Decision was sent to them.

Where such an appeal is made, the effect of the Decision and the Order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by upholding the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.



Graham Harding, Legal Member

14 November 2017

Housing and Property Chamber

First-tier Tribunal for Scotland



Reference: PRHP/RP/17/0277

Property – 31 Carrick Knowe road, Edinburgh EH12 7BQ

Inspection Report 11 October 2017



1.0 INTRODUCTION

This property was inspected on 11 October 2017 by Graham Harding (Legal Member), Susan Napier (Ordinary Member) and Richard Mill (Legal Member Appraiser). A new tenant was in the process of moving into the property, but neither the original tenant Ms McDougall nor the Landlord, Mr Gillies attended.

The property is south facing, 2 storey upper flat with attic conversion in a block of four flats and consists of internal stair, hall, living room, kitchen, three bedrooms, bathroom and storage cupboards. There is a rear garden surrounded by fences and hedges.

At the time of the inspection the weather was light cloud and dry, with light wind. Photographs taken on 11 October 2017 are attached in Appendix 1.

2.0 Application by tenant under the Repairing Standard

2.1 The tenant had complained of the following failures to meet the Repairing Standard:

- 2.1.1 The kitchen floor has been destroyed by workmen employed by the landlord. The kitchen is unusable. The tenant would be at risk of falling through to the flat below if she used the kitchen.
- 2.1.2 The WC soil pipe is blocked and the contents of the toilet are backing up into the shower tray and bath.

3.0 Inspection 11 October 2017

At the inspection on 11 October the following were found:

- 3.1 The kitchen floor was in place and floor coverings had been laid. When walked upon, the floor was stable and there was no movement. The kitchen units were all in place and the kitchen was usable.
- 3.2 The WC was clear and when flushed several times the water drained away quickly and there was no back up into the shower or bath.

4.0 Other matters

The new tenant pointed out that there were various issues with electrical sockets and light fittings.

When asked, the new tenant advised that she had not been given either an Electrical Condition Report or a Gas Safe Certificate by the Landlord.

There is a new smoke detection system and carbon monoxide detector fitted in the property.

Susan Napier, BSocSc, FRICS
Ordinary Member (Surveyor)

12 October 2017

Appendix 1

Photographs – 31 Carrick Knowe Road, Edinburgh EH12 7BQ 11 October 2017

Kitchen Floor



WC and shower

