

# 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 (1)**

**Chamber Ref: FTS/HPC/RP/19/1180**

**Flat 10 , 3 Sandbank Drive, Glasgow G20 0DA  
("The Property")**

**The Parties:-**

**Miss Gabriela Farasheva and Miss Shivani Shirbhate both formerly  
residing at Flat 10, 3 Sandbank Drive, Glasgow G20 0DA  
("the Tenants")**

**Miss Nicola Teese, Flat 1/1, 62 Jellicoe Street, Clydebank G81 4HJ  
represented by Tay Letting Limited, Craighall Business Park, 8 Eagle  
Street, Glasgow G4 9XA  
("the Landlord")**

**Tribunal Members**

**Graham Harding (Legal Member)**

**Mike Links (Ordinary Member)**

**Mary Lyden (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 Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by both the Landlords and the Third Party at the hearing, determined that the Landlords had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

**Background**

- 1. By application dated 08 April 2019 the Tenants applied to the 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 Housing (Scotland) Act 2006 ("the Act").**
- 2. The application stated that the Tenants considered that the Landlords had failed to comply with their duty to ensure that the house meets the**

- tolerable standard and in particular that the Landlords had failed to ensure that the house had adequate heating, the hot water supply had not been connected to the off peak circuit and in general it used too much electricity to heat the property.
3. The Tenants vacated the property on or about 22 April 2019. By Minute of Continuation dated 2 May 2019 a Convenor with delegated powers determined that although the Tenants were to be treated as having withdrawn the Application as it raised issues for future tenants the application should be continued.
  4. By Minute of Decision dated 2 May 2019 a Convenor of the Housing and Property Chamber with delegated powers intimated a decision to refer the application under Section 23 (1) of the Act to a Tribunal.
  5. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord and the Landlords representatives.
  6. Following service of the Notice of Referral the Landlord's representatives (by email dated 24 June 2019), made written representations to the Tribunal.
  7. The Tribunal inspected the Property on the morning of 12 July 2019. The Landlord was present during the inspection. The Ordinary Member of the Tribunal, Mr Links, took photographs of the property which are attached as a schedule to this decision.
  8. Following the inspection of the Property the Tribunal held a hearing at Glasgow Tribunals Centre. Neither the Landlord nor her representatives were in attendance and the Tribunal determined the application in their absence based on their observations at the inspection and the documents and written submissions with the case papers.

### **Summary of the issues**

9. The issue to be determined is whether the property meets the tolerable standard

### **Findings of fact**

10. The Tribunal finds the following facts to be established:-
  - The tenancy was let to the former tenants under a Private Residential Tenancy Agreement.
  - The property was advertised as having an Energy Efficiency Rating of "C" and the Tenants were provided with an Energy Performance Certificate ("EPC") confirming this to be the case.

- The EPC was prepared by an independent assessor, Fiona Nicoll.
- The estimated energy costs for the property over a three-year period was said to be £1812.00.
- The former Tenants incurred electricity bills amounting to £986.06 in respect of the 6-month period from 2 October 2018 to 3 April 2019.
- Heating in the property was provided by off-peak storage heaters in the living room and hall and panel heaters in the two bedrooms and bathroom.
- The off-peak storage heater in the living room also had a standard tariff convector heater facility.
- The heaters in in the property were not new.
- The former tenants complained to the Landlord's representatives about the cost of electricity on or about 21 February 2019.
- The Landlord's representatives arranged for an electrician to inspect and check the heaters and the electric system.
- The heaters were found to be in working order.
- The hot water immerser had an off-peak facility that was not connected to the off-peak circuit and following the inspection the Landlord had this connected.
- The property meets the tolerable standard.

### **Reasons for the decision**

11. The Tribunal noted that the cost of electricity incurred by the former tenants had been over the coldest part of the year. It seemed likely that the amount of electricity used would reduce during the warmer months. The Tribunal noted that the former Tenants had supplied the Tribunal with statements from neighbours that appeared to show that their electricity usage was substantially lower but the Tribunal was unable to say how much weight to place on these statements in the absence of the witnesses themselves. It was again possible that the figures provided represented the average over the year and would therefore take account of the lower cost in the summer months. The Tribunal also noted that it appeared that the former tenants had used the panel heaters for drying clothes. It was not possible for the Tribunal to calculate how much electricity this practice might have used. The Tribunal accepted that the estimated energy costs provided by the assessor in the EPC was just that, an estimate, and would vary according to location and level of usage by individual occupiers. The Tribunal did not feel that the estimates should be taken as the likely cost for energy in the property. It appeared from the information provided that when a complaint was made by the former tenants, the Landlord took action to have the electrical system checked and the heaters and the system were in order. Although the heaters were not new and may not be the most energy efficient that would not result in the property failing to meet the tolerable standard. In terms of the Housing (Scotland) Act 1987 a property meets the tolerable standard if it has satisfactory provision for

heating. The Tribunal was satisfied the heating provided was satisfactory and therefore the property met the tolerable standard.

### **Decision**

12. The Tribunal accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
13. The decision of the Tribunal was unanimous.

### **Right of Appeal**

14. **A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

### **Effect of section 63**

15. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming 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.

G Harding

Signed

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Date

17 July 2019

Chairperson

# Housing and Property Chamber First-tier Tribunal for Scotland



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

## **SCHEDULE OF PHOTOGRAPHS**

**ADDRESS: 3 Sandbank Drive, Glasgow G20 0DA**

**DATE: 12<sup>th</sup> July 2019**

**REFERENCE: FTS/HPC/RP/19/1180**



**FRONT ELEVATION**



**LIVING ROOM RADIATOR**



**HALL RADIATOR**



**BEDROOM RADIATOR**



**BEDROOM RADIATOR**



**BATHROOM HEATER**



**KITCHEN-CONTROL UNIT**



**ELECTRIC METERS.**

**MIKE LINKS**

**ORDINARY MEMBER (SURVEYOR)**

**HOUSING AND PROPERTY CHAMBER**

**DATE 13<sup>TH</sup> July 19**