

Housing and Property Chamber First-tier Tribunal for Scotland



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

Chamber Ref: FTS/HPC/RP/19/1259

Title no/Sasines Description: DMB44860

4 Auckland Place, Dalmuir, Clydebank, G81 4JZ (“the House”)

The Parties:-

Ms Caroline Jones, formerly residing at the House and now treated as having withdrawn her Application (“the Tenant”)

Ms Lyndsey Cox, 10 Moore Drive, Bearsden, Glasgow, G61 2QY (“the Landlord”)

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) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the House, determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act and therefore that no Repairing Standard Enforcement Order requires to be made.

The Tribunal comprised:-

Nicola Weir, Legal Member

Lori Charles, Ordinary Member

Background

1. By Application received on 25 April 2019, the Tenant applied to the Tribunal 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”). The Application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the house meets the repairing standard in terms of Section 13 (1)(b)(c)(d)(f)(g) and (h). In particular, the Tenant complained of

dampness in the bedrooms which has damaged bedroom furniture, bedding and curtains as well as plaster finishes and corroded window fittings; water ingress from bathroom affecting kitchen ceiling and running into kitchen cabinets; condensation dampness in bathroom as no extractor fan has been installed; cracked floor tiles in the kitchen; the cooker supplied by the Landlord being defective as when the grill is used, the electricity supply is tripped; no hard wired smoke alarms installed and no heat detector in kitchen; no electrical safety certificate has been issued; and no carbon monoxide detector. The Tribunal requested some further information in support of the Application and this was lodged by the Tenant.

2. On 18 July 2019, a Legal Member of the Tribunal, acting under delegated powers in terms of Rule 9 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) issued a Notice of Acceptance of the Application which comprised documents received by the Tribunal between 25 April 2019 and 2 July 2019.
3. On 5 August 2019, the Tribunal received notification from the Tenant that she had vacated the House on 1 August 2019.
4. On 12 August 2019, a Legal Member of the Tribunal, acting under delegated powers in terms of Section 23A of the Act, having received confirmation that the tenancy of the House has been terminated and accordingly that the Tenant is to be treated as having withdrawn the Application in terms of Schedule 2, paragraph 7(1) of the Act, decided that, as the Application included matters that are health and safety concerns, the Application should be continued to a determination by the Tribunal.
5. Following service of the Notice of Referral, Inspection and Hearing on the Landlord, the Landlord submitted written representations to the Tribunal by email on 1 September 2019. She advised that she would not be attending the Hearing on 16 September 2019 but subsequently confirmed that access to the House for inspection would be granted to the Tribunal on 16 September 2019.
6. The Tribunal inspected the House on the morning of 16 September 2019. The Landlord was not present but access was provided by her husband who was present throughout the Inspection.
7. Following the Inspection of the house, the Tribunal held a Hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT. No party attended the Hearing.

The Inspection

8. At the time of the inspection, there were light rain showers. The House is a mid-terraced property. The Tribunal noted that there was an Estate

Agency sign in the front garden of the House, indicating that the property has been sold, as per the Landlord's prior written representations to the Tribunal. A Schedule of Photographs taken during the inspection by the Ordinary Member is attached to this Statement of Decision and executed as relative hereto. The Tribunal's findings on inspection of the House are as detailed in said Schedule of Photographs. The Landlord's husband confirmed at the end of the Inspection that the Landlord was not able to attend the Hearing as she was at work, again, as per the Landlord's prior written representations. He confirmed that there had been an up to date electrical safety check carried out and was asked by the Tribunal to request that the Landlord submit same to the Tribunal as soon as possible.

The Hearing

9. At the Hearing, the Tribunal had before it the Application and other supporting documentation referred to above, and the subsequent written representations submitted by the parties. No party attended the Hearing. The Tribunal was satisfied that, other than the electrical safety aspects, the House meets the Repairing Standard in terms of the various issues raised by the former Tenant in her Application to the Tribunal.

Post-Hearing

10. On 15 October 2019, the Landlord submitted an Electrical Installation Condition Report ("EICR") dated 18 September 2019 from a registered NICEIC contractor which was in terms satisfactory to the Tribunal which then determined that that aspect of the Repairing Standard in respect of the House is met.

Findings in Fact

11. Reference is made to the Tribunal's findings on Inspection.
12. The Tenant had occupied the House under a Short Assured Tenancy with the Landlord which commenced on 1 May 2017.
13. The Tenant had vacated the House on or around 1 August 2019.
14. Prior to vacating the House, the Tenant had raised repairs issues with the Landlord, notified the Landlord of same and submitted an Application to the Tribunal.
15. The Landlord has since recovered possession of the House, carried out certain works to the House and marketed/sold the House.
16. The House meets the Repairing Standard in respect of the various issues raised by the tenant in her Application.

Reason for decision

17. The Tribunal considered the issues of disrepair set out in the Application and noted at the Inspection, as well as the terms of the EICR submitted to the Tribunal subsequently.
18. The Tribunal determined that the Repairing Standard is met in respect of the House in terms of the various issues raised in the Application, that the Landlord has complied with the duty contained in Section 14(1)(b) of the Act and that there is accordingly no requirement for a Repairing Standard Enforcement Order to be made.
19. The decision of the Tribunal was unanimous .

Right of Appeal

A landlord, tenant or third party applicant 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.

In terms of Section 63 of the Act, 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.

N Weir

Signed..... Date: 21 October 2019
Nicola Weir, Legal Member of the Tribunal

Glasgow, 21 October 2019

This is the Schedule of Photographs
referred to in the Statement of
Decision attached, of even date herewith.

N Weir

N Weir, Legal Member of Tribunal

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



Date of Inspection – 16/09/19 at 10:00am

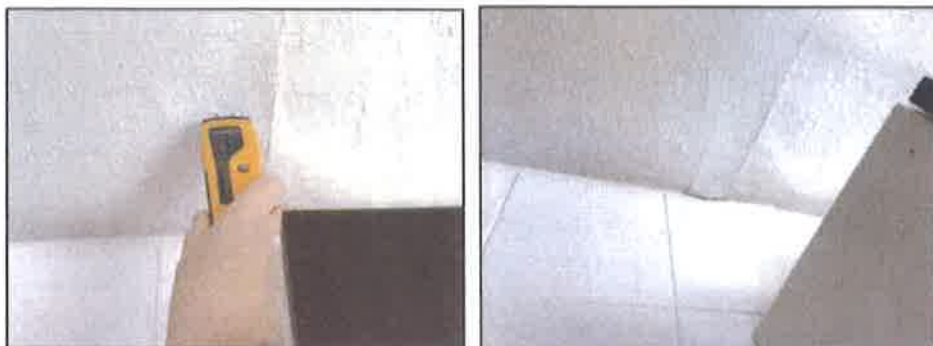
Property Reference – FTS/HPC/RP/19/1259

Property Address – 4 Auckland Place, Dalmuir, Clydebank G81 4JZ

Surveyor – Lori Charles

Weather – Light rain showers

Kitchen

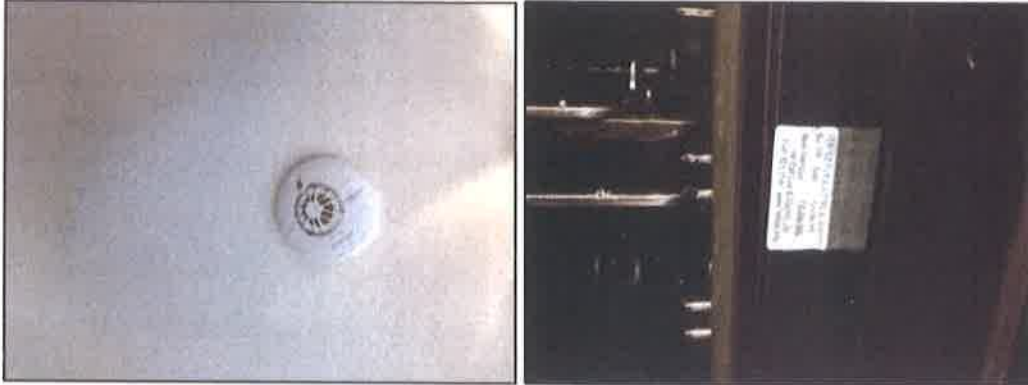


No evidence of recent water ingress within kitchen - Some slight historic damage noted.



Several tiles were noted as having impacted cracks.

Kitchen continued



A hard wired interlinked heat detector was fitted within the kitchen and was tested during inspection and worked with all smoke detectors.

The cooker and grill has been inspected and has an up to date PAT test.

Bathroom



No evidence of condensation noted during inspection, slightly high reading of dampness on one section of flooring, this could be due to owner steam cleaning bathroom tiles. No extract fan noted but window opened and closed with ease and trickle ventilation is present.

All window handles were opened and closed, however there were no keys available to test locking mechanism.



Carbon dioxide monitor fitted to cupboard housing the combi boiler. Combi boiler has had an up to date gas safety inspection carried out on the 12/09/19.

Rear garden



All fencing has been repaired and garden is fully secure.

Additional information

An updated EICR dated 18/09/19 was presented to the tribunal after the hearing.

Lori Charles BSc Hons MRICS

Ordinary Member (Surveyor)

Date 16/09/2019

Schedule of photographs taken by the Ordinary Member of the First Tier Tribunal for Scotland (Housing and Property Chamber) on the 16th September 2019.

Reference Number FTS/HPC/RP/19/1259