

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 24 (1) of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22 of the Act

Chamber Ref: FTS/HPC/RP/22/0750

Re: Property at 1-4, 146, Copland Road, Glasgow, G51 2UB registered in the Registers of Scotland under Title Number GLA28881 (“the Property”)

The Parties:

Mr. Peter Aitchison residing at Flat 1/1, 5, Whitehill Gardens, Glasgow, G31 2PR (“the Landlord”)

Tribunal Members:

Karen Moore (Chairman) and Lori Charles (Ordinary Surveyor Member)

Decision of the Tribunal

The Tribunal determined that the Landlord has not failed to comply with the duty imposed on him by Section 14(1)(b) of the Act.

Background

1. By application received between 15 and 19 March 2022 (“the Application”), the then tenant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1)(a), 13(1)(b) and 13(1)(h) of the Act.
2. The Application noted the following heads of complaint:
 - i. The windows need repairing as they have dry rot and are not wind tight;
 - ii. There are cracks in the ceiling and walls and the ceiling is in danger of collapse and
 - iii. The gas valve at the meter needs to be inspected.
3. The Application was referred to the Tribunal and an Inspection and Hearing were

fixed for 30 May 2022 and 6 June 2022, respectively.

4. Prior to the Inspection and Hearing, the then tenant vacated the property and the Tribunal continued with the Application of its own accord.

Inspection and Hearing

5. The Inspection of the matters complained of in the Application took place at the Property on 30 May 2022 with the Landlord in attendance. The Property was undergoing significant decoration work at the time of the Inspection. Following the Inspection and before the date of the Hearing, the Inspection Schedule of Photographs was issued to the Landlord.
6. The Inspection Schedule of Photographs noted the following in respect of each of the heads of complaint listed in the Application:
 - i) The windows in the Property are the original windows and are in a satisfactory working order, albeit the seals are in a poor condition;
 - ii) There is no evidence of cracks in the walls or ceiling and there is no evidence of the ceiling being close to collapse;
 - iii) There is no evidence of any defect in the gas valve.
7. The Hearing took place on 3 February 2022 at 10.00 by telephone conference call. The Landlord took part. The Tribunal's Inspection of the Property was discussed and the Tribunal advised the Landlord that it was satisfied that the condition of the Property meets the Repairing Standard. The Tribunal drew the Landlord's attention to the fact that the window seals should be replaced. The Landlord confirmed that this work is programmed to be done later this week as part of the ongoing works.

Findings of Fact

8. The Tribunal's findings in fact were made from the Application and the Inspection and Hearing.
9. The Tribunal found the following matters established: -
 - a. There was a tenancy of the Property at the date of the Application;
 - b. The windows in the Property are the original windows and are in a satisfactory working order;
 - c. There are no cracks in the walls or ceiling and there is no evidence of the ceiling being close to collapse;
 - d. There is no evidence of any defect in the gas valve.

Summary of the Issues

10. The Tribunal's statutory function in terms of Section 24(1) of the Act is that it must "decide whether the landlord has complied with the duty imposed by section 14(1)(b)" of the Act. Accordingly, the issues to be determined by the Tribunal are

whether or not the Property meets the Repairing Standard in respect of Sections 13(1)(a), 13(1) (b), 13 (1) (f) and 13(1)(h) of the Act at the date of the Inspection.

Decision of the Tribunal and reasons for the decision.

11. In respect of the complaint in terms of Section 13(1) (a) that the Property is not wind and watertight and reasonably fit for human habitation, the Tribunal found that the condition of the windows is satisfactory and so the Property is wind and watertight and is reasonably fit for human habitation. Accordingly, the Tribunal found that the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
12. In respect of the complaint in terms of Section 13(1)(b) that the Landlord has failed to ensure that the structure and exterior of the Property (including drains, gutters and external pipes) is in a reasonable state of repair and in proper working order, the Tribunal found that the Property is in a reasonable state of repair and so the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
13. In respect of the complaint in terms of Section 13 (1) (h) that the Landlord has failed to ensure that the Property meets the Tolerable Standard, the Tribunal is satisfied that Property meets the Tolerable Standard and so found that the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
14. The decision is unanimous.

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.

Signed

K Moore

Karen Moore, Chairperson

6 June 2022