

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/23/0671

Sasine Register: ROX16597

182 Weensland Road, Hawick TD9 9RN (“The Property”)

The Parties:-

Mr Ryan Nichol, 182 Weensland Road, Hawick TD9 9RN (“the former tenant”)

Mr Roger Gillespie, 2 Patterson Gardens, Hawick TD9 0DT (“the landlord”)

Tribunal Members: Richard Mill (Legal Member) and Andrew Murray (Ordinary Member)

Decision

The property meets the repairing standard. The landlord has complied with the duty imposed by section 14(1) of the Housing (Scotland) Act 2006. No Repairing Standard Enforcement Order is necessary.

Background

1. The former tenant applied to the tribunal for a determination of whether the landlord has failed to comply with the duties imposed by section 14(1) of the Act in respect of the property.
2. In the written application the former tenant stated that the landlord had failed to comply with their duty to ensure that the property meets the repairing standard according to section 13(1)(a), (b), (c), (d), (f) and (h), which set out the following obligations:-

- The house is wind and watertight and in all other respects reasonably fit for human habitation.
 - The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
 - The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
 - Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
 - The house does not meet the tolerable standard.
3. Following processing the application, the tribunal was advised that the tenant had vacated the property. The tribunal considered that due to the nature of the health and safety issues raised that the application should be continued and a relevant Minute of Continuation under schedule 2 of the Act was issued.

Inspection

4. The tribunal inspected the property on 18 July 2023 at 10.00 am. The landlord permitted entry to the tribunal representatives.

Hearing

5. Following the inspection of the property, the Tribunal convened a hearing at Heart of Hawick Tower Mill, Kirkstile, Hawick TD9 0AE at 11.45 am on 18 July 2023.

Direction

6. The only issue of concern arising from the tribunal's inspection of the property was the condition of the electrical installations. Accordingly, prior to reaching a final determination on the application, the tribunal issued a Direction on 18 July 2023 requiring an up to date Electrical Installation Condition Report (EICR) evidencing that no category C1 or C2 items of disrepair were present in the property.

Findings in Fact

7. The tribunal makes the following findings in fact:
 - a. The title to the subjects known as 182 Weensland Road, Hawick TD9 9RN is held by the landlord under Title number ROX16597.
 - b. The property is a terraced two storey, two bedroomed property.
 - c. The property has recently been vacated by the former tenant and substantial repairs and renovations are now required to renovate the property prior to any further occupation being possible.
 - d. The landlord has commenced arrangements for a complete refurbishment of the property, including the installation of a new kitchen and bathroom and complete redecoration of the property.
 - e. Mr Ross Gibson of R A Gibson Electrical Limited, Hawick has produced an EICR based upon an inspection on 20 July 2023 which specifies that the electrical installation in the property is satisfactory. A number of C3 improvements are recommended.
8. Reference is made to the schedule of photographs comprised within the inspection report prepared by the tribunal and attached to this decision.

Reasons for Decision

9. The tribunal determined the application having regard to all the documentary evidence available, together with their observations at the inspection and the representations made to the tribunal by the landlord at the hearing.
10. The tribunal formed a favourable impression of the landlord and found his representations and submissions to be both credible and reliable. It was obvious at the time of the tribunal's inspection that the condition of the property would make it impossible for the landlord to rent the property. He provided a detailed explanation regarding the steps which he has already taken to carry out a complete refurbishment of the property and provided specifications of the bathroom and kitchen to be installed, as well as other refurbishment work. Additionally, he advised that it was not his intention to relet the property anyway and instead would intend to sell it once upgraded.
11. The only matter of concern arising from the tribunal's inspection on 18 July 2023 was the condition of the electrics in the property. This was the one aspect which was of potential concern to the safety of

members of the public. The landlord indicated that he would obtain an EICR to establish the position and make good any C1 and C2 items of disrepair. He had refrained from carrying out any work in the property following the departure of the former tenant so as to allow the tribunal to see the property in the condition in which it was left. He had no intention to delay any necessary works.

12. The subsequent production of the EICR from R A Gibson Electrical Limited satisfied the tribunal regarding the condition of the electrical installations.
13. The tribunal determines that the property meets the repairing standard and no Repairing Standard Enforcement Order is necessary.

Right of Appeal

14. 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.
15. 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.

R Mill

Legal Member