

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/21/2001

41 Delta Drive, Musselburgh, East Lothian EH21 8HW (“the property”)

The Parties:-

Miss Karen Rodgers, 41 Delta Drive, Musselburgh, East Lothian EH21 8HW (“the Tenant”) represented by East Lothian Council Housing Options Team, Bruntonhall, 2 Ladywell, Musselburgh EH21 6AF (the Tenant’s representatives”)

Qurat Al Ain, 499a Gorgie Road Edinburgh EH11 3AJ (“the Landlord”)

Tribunal Members:

Graham Harding (Chairman) and Andrew Murray (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 written representations submitted on behalf of both parties, 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 12 August 2021 the Tenant’s representative Mrs Alison Baron, East Lothian Council, 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 Tenant’s representative considered that the Landlord had failed to comply with their duty to ensure that the house

meets the repairing standard and in particular that the Landlords had failed to ensure that: -

- (a) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order;
- (b) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire;
- (c) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
- (d) That the house meets the tolerable standard.

Specifically, the Tenant's representative complained that: -

The front door did not lock and the frame was damaged;
The hall wall sockets did not work;
The bathroom window sill and frame were rotting and there was a problem with the door handle;
A socket in the living room was hanging off the wall and was faulty; and there were no smoke alarms downstairs and the one upstairs did not work.

3. By Notice of Acceptance dated 24 August 2021 a legal member of the Tribunal with delegated powers accepted the application.
4. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord on 14 September 2021. A direction was also served on the Landlord at that time requiring him to produce a current Electrical Installation Condition Report for the property and PAT testing for any portable appliances by 30 September 2021.
5. By email dated 13 October 2021 the Tenant's representative submitted further written representations to the Tribunal.
6. A Case Management Discussion ("CMD") was held by teleconference on 20 October 2021. Neither party attended nor were they represented and the CMD was adjourned and a further Direction issued to the Landlord.
7. By email dated 10 November 2021 the Landlord submitted written representations to the Tribunal.
8. By letter dated 12 November and received on 16 November 2021 the Landlord submitted further written representations.
9. By email dated 18 November 2021 the Landlord submitted further written representations.

10. By email dated 28 November 2021 the Landlord submitted an Electrical Installation Condition Report and by email dated 2 December 2021 submitted a full copy of the report.
11. By email dated 13 February 2022 the Landlord submitted further written representations to the Tribunal.
12. The Tribunal inspected the Property on the morning of 2 March 2022. The Landlord's father Mr Afzal Mughal and the Tenant were present during the inspection. The Ordinary Member of the Tribunal took photographs of the property and prepared a pre-hearing summary which are attached as a schedule to this decision.
13. By email dated 9 March 2022 the Landlord submitted further written representations to the Tribunal.

The Hearing

14. A hearing was held by teleconference on 9 March 2022. Neither party attended nor were they represented. The Tribunal being satisfied that the parties were aware of the date and time of the hearing determined to proceed with the application on the written representations and its own observations at the inspection.

Summary of the issues

15. The issues to be determined are as detailed in paragraph 3 above.

Findings in fact

16. The Tribunal finds the following facts to be established: -
 - The tenancy is a short assured tenancy that commenced on 1 May 2013 and endured until 31 October 2013 and thereafter by tacit relocation.
 - The front door at the property has been replaced with a new door and operates properly.
 - The electric socket in the hall is disconnected from the power supply and is non-functional.
 - The bathroom window has been replaced.
 - The internal window frame in the bathroom suffers from wet rot.
 - A socket in the living room is loose.
 - A new wireless interlinked smoke and heat detector system has been installed in the property.

Reasons for the decision

17. It was apparent to the Tribunal at the inspection that the Landlord had sought to remedy a number of the issues complained of by the Tenant in that the front door had been replaced as had the bathroom window and a new smoke and heat detector system installed.
18. The Landlord had also produced a current Electrical Installation Condition Report with no adverse findings. The electrician had not found the socket in the living room to be faulty. The Tribunal was therefore satisfied that the electrical installations in the property were in proper working order. Although there was no working socket in the hall the Tribunal concluded that in itself would not be a breach of the repairing standard as there was adequate provision of sockets elsewhere within the property. However, the Tribunal would recommend that the Landlord consider installing a working socket in the hall and securing the socket in the living room.
19. With regards to the wet rot in the internal window frame in the bathroom the Tribunal rejects the Landlord's suggestion that the Tenant has interfered with the frame. This issue is obviously long standing as can be seen from the correspondence from the Tenant's representative to the Landlord prior to the application being submitted and from the photograph submitted by the Landlord with her email of 9 March which clearly shows the flaking paintwork on the window frame caused by the wet rot. However, whilst the Tribunal is in no doubt that the frame should be replaced as soon as possible it does not consider that it currently is a breach of the repairing standard as the property is wind and watertight. The Tribunal would however strongly recommend the Landlord replace the window frame in the near future as failure to do so may well result in more substantial repairs in the future.
20. The Tribunal was satisfied that the door handle in the bathroom was operating properly.
21. Having considered the issues raised by the Tenant in her application and taken account of all of the documents submitted by the parties in their written representations together with the Tribunal's own findings at the inspection the Tribunal was satisfied that as at the date of the hearing the property did meet the repairing standard.

Decision

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

Right of Appeal

24. 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

25. 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

Graham Harding

22 March 2022

Legal Member

Date