

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 and Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).

Case Reference FTS/HPC/RP/21/1807

Property: Flat 1/2, 20 Walton Street, Shawlands, G41 3LG (“the Property”)

Miss Amanda Ajomale and Mr Joseph Weldon, residing at Flat 1/2, 20 Walton Street, Shawlands, G41 3LG (“the Tenant”)

Mr Martin Coles and Ms Helen Paspatas, both c/o Suite 5, Platinum House, 23 Eagle Street, Glasgow, G4 9XA (“the Landlord”) per their agents Western Lettings of Suite 5, Platinum House, 23 Eagle Street, Glasgow, G4 9XA (“the Landlord’s Agents”)

Tribunal Members – Karen Moore (Legal Member) and Nick Allan (Ordinary Member)

Decision of the Tribunal

The Tribunal determined that the Landlord has not failed to comply with the duty imposed on them 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) (d) and 13(1) (h) of the Act. Accordingly, the Tribunal makes no Order.

Background

1. By application received between 27 July 2021 and 10 August 2021 (“the Application”), the Tenant of the Property applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord has failed to comply with the duty imposed on them by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Section 13(1) (d) of the Act, insofar as the toilet seat requires to be repaired or replaced, and Section 13(1) (h) of the Act, insofar as the Property does not meet the Tolerable Standard. The Application comprised an application form, copy correspondence between the Tenant and the Landlord’s Agents and photographs of the Property.
2. The Application was referred to the Tribunal and a Case Management Discussion (“CMD”) was fixed for 4 October 2021 at 10.00. Prior to the CMD the Landlord’s Agents submitted evidence that the toilet seat had been replaced, and, the Tenant

intimated to the Tribunal that the repairs had been completed and sought to withdraw the Application.

3. The Tribunal had regard to the whole Application and, in particular, to the complaint that the Property does not meet the Tolerable Standard and so continued the Application of its own accord in terms of Schedule 2 to the Act.

CMD

4. The CMD took place on 4 October 2021 at 10.00 by telephone conference call at which the Landlords were represented by Ms. Emily Duff of the Landlord's Agents. The Tribunal explained that ordinarily the Tribunal would carry out an inspection of the Property, that due to COVID-19 restrictions inspections are limited and that the purpose of the CMD is to determine if further procedure is required or if the Tribunal can make a determination
5. The CMD proceeded with Ms. Duff explaining and confirming to the Tribunal that all of the repairs notified by the Tenant had been completed. In particular, the repairs illustrated in the photographs of the Property which form part of the Application have been attended to.

Issue for the Tribunal

6. The issue to be determined by the Tribunal was whether or not the Landlord has failed to comply with the duty imposed on them by Section 14(1)(b) of the Act. The Tribunal took the view that the information before it was sufficient to make this determination. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussionincluding making a decision" and determined that it could proceed with matters at the CMD without the need for an Inspection and Hearing.

Findings of Fact

7. The Tribunal's findings in fact were made from the Application, the Parties' written representations and the CMD and that on the balance of probabilities.
8. The Tribunal found the following matters established: -
 - a. There is a private residential tenancy between the Parties;
 - b. There had been repairs required to the Property at the time of the Application;
 - c. There is no evidence of repairs being required at the date of the CMD;
 - d. There is no evidence that the does not meet the Tolerable Standard at the date of the CMD.

Decision of the Tribunal and reasons for the decision.

9. Having found that there is no evidence of repairs being required at the date of the CMD and that there is no evidence that the Property does not meet the Tolerable Standard at the date of the CMD, the Tribunal found that Landlord has not failed

to comply with the duty imposed by Section 14 (1) (b) of the Act and so dismissed the Application, making no Order.

10. The decision is unanimous.

Signed

K Moore

Karen Moore, Chairperson

6 October 2021