

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/18/0961

62 Keir Hardie Road, Larkhall, Lanarkshire, ML9 2ND
(“the Property”)

The Parties:-

Douglas Hannah, 62 Keir Hardie Road, Larkhall, Lanarkshire, ML9 2ND
(“the Tenant”)

Mr David George Robb and Mrs Claire Elizabeth Robb, 61 Hamilton Road, Larkhall (“the Landlords”)

Tribunal Members:

Adrian Stalker (Chairman) and Nick Allan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’), having made such enquiries as it saw fit, determined that the Property complies with the repairing standard under section 13 of the Housing (Scotland) Act 2006, and therefore made no order under section 24 of the Act.

Background

1. By an application to the Housing and Property Chamber received on 26 April 2018, the Tenant sought a determination of whether the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The application contended that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard under section 13 of the 2006 Act, and in particular, that the Landlord had failed to ensure, at all times during the tenancy, that:-
 - a) the house is wind and watertight and in all other respects reasonably fit for human habitation (section 13(1)(a));

- b) 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, (section 13(1)(b)); and
 - c) 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 (section 13(1)(c))
- 3. In particular, in completing the part of the application form headed: "Please list details of how you consider the landlord has failed to meet the Repairing Standard", the Tenant had entered:

Not repairing the shower waste water problem where the shower backs up and we end up showering with a back up of dirty water. Bathroom has needed re-plumbed and 2 estimates refused also having no hot water at times up to 13 weeks due to boiler in kitchen not working properly and needing all plumbing done downstairs as yet not done after a year of reporting to Let Link ended up getting MSP, and Environmental Health involved and stopping the rent.

- 4. In completing the part of the application form headed: "Please list details of the work needed...", the Tenant entered:

Property needs replumbed from bathroom to kitchen been promised for more than a year and over but nothing done to date and we have given a year or more for these issues to get done. But due to stress of this all we are looking for alternative accommodation.

- 5. On 21 May 2018, a Convener having delegated powers under section 23A of the Act made a decision, under section 23(1)(a), to refer the application to a First-tier Tribunal.
- 6. The Tribunal served Notice of Referral under and in terms of schedule 2, paragraph 1 of the Act upon the Landlord and the Tenant by letter dated 21 June 2018.
- 7. Following service of the Notice of Referral the Landlords sent written representations to the Tribunal, incorporating productions running to 74 pages. These gave details of certain repairs and work that had recently been carried out at the property. The Landlords also advised that the Tenant had left the Property some weeks ago.
- 8. The Tribunal members inspected the Property at 10am on the morning of 30 July 2018. One of the joint Landlords, Mrs Claire Robb, was present, along with two members of staff from her agents, Let Link, 5 Wellgate St, Larkhall, ML9 2AG. The tenant was not present, or represented.

9. At 12 noon that day, the Tribunal held a hearing at the Glasgow Tribunals Centre, Room 112, 20 York Street, Glasgow. The parties were not present, or represented, at that hearing.

Inspection

10. The Property is a two-storey, mid-terraced villa. The ground floor comprises a hall, kitchen and living room. On the first floor, there is a toilet with a shower, and two bedrooms. The property had the appearance of being currently unoccupied. Photographs taken by the Ordinary Member are attached to this decision.
11. The property is heated by electric panel heaters. In the kitchen, there is a hot water cylinder, which is boxed-in, under a work surface. The water at the property is heated by the hot water cylinder. The shower is electrically powered, independently. There is no boiler.
12. On inspection, the Tribunal members operated the shower. It was found to be in proper working order, providing hot water at an adequate pressure. The water ran clear. The shower was run for about five minutes. The water was draining sufficiently at the base of the shower. There was no indication of water backing up. Mrs Robb advised the Tribunal members that there had been a problem before, because the waste pipe below the shower did not sit at a gradient (i.e. it was level). As a result, the water was not draining away, and was backing up, into the base of the shower. This problem has been addressed by raising the base of the shower, so that the waste pipe now runs at a gradient, downwards away from the shower.
13. The Tribunal members were advised that there had previously been a problem with the hot water at the property, which was due to a defective hot water cylinder. They were provided with an invoice, from Avon Valley Plumbing, Larkhall, dated 13 September 2017, indicating that the cylinder had been replaced, at the total cost of £510. Mrs Robb explained that the tenant had, at times, caused the hot water cylinder to cut out. It has a temperature setting. If it is set high, it will automatically cut out, after a period, as a safety measure. In short, Mrs Robb attributed any problem with the operation of the cylinder, since September 2017, to the tenant. It was not possible for the Tribunal members to examine the cylinder. That would have involved pulling apart the unit in which it is boxed. The cylinder had been switched on, for about 20 minutes prior to the inspection. The Tribunal members checked that the water ran hot, fairly quickly after the hot water tap was switched on. Therefore, it was evident that the current cylinder is heating the hot water.

Findings in fact

14. The Tribunal finds the following facts to be established:-

- i. That any previous problem that existed with the shower had been repaired. The shower is in proper working order, and there is no current problem with water backing up.
- ii. Likewise, the hot water cylinder has been replaced, and operates to heat the hot water. The Tribunal did not find any defect in the operation of the cylinder, during the course of the inspection.

Reasons for the decision

15. The Tribunal was satisfied that the issues raised by the Tenant in the application had been addressed.

Decision

16. The Tribunal accordingly determined the Property complies with the repairing standard under section 13 of the Housing (Scotland) Act 2006, and therefore made no order under section 24 of the Act.
17. The decision of the Tribunal was unanimous.
18. **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.**
19. 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.

A Stalker

Signed

Date 1 August 2018

Chairperson