

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 24 (1) of the Housing (Scotland) Act 2006

Ref: FTS/HPC/RT/18/1417

Property: Flat 0/2, 24 Greenlaw Avenue, Paisley, PA1 3RD registered under title number REN9453

The Parties:-

Ms Angela Crawford, formerly residing at Flat 0/2, 24 Greenlaw Avenue, Paisley, PA1 3RD ("the former Tenant")

And

Steven Newlands and Lynn Newlands, residing at 4919 Niagara Avenue, San Diego, California, USA, 9210 per their agents Martin and Company, 9 Canal Street, Paisley, PA1 2HD ("The Factor")

Tribunal:

Mr James Bauld – Legal Member
Mr Nick Allan- Ordinary Member

Background

1. An application was made to the First-tier Tribunal by the applicant dated 14 June 2018 and received by the tribunal on 15 June 2018. After consideration of the application it was determined that the application should be referred to the tribunal for a decision. An inspection and hearing was set to take place on 4 September 2018 and appropriate intimation of that inspection and hearing was sent to the parties.

2. Emails dated 17 August 2018 and 23 August 2018 were sent to the tribunal by the landlord's agent. These emails indicated that the tenant had vacated the property and that new tenants had taken over the tenancy of the property with effect from 24 July 2018. These emails indicated that the various works had now been completed with the exception of the re-enamelling of the bath which was due to be completed on the 28 August 2018.
3. On 1 August 2018 the tribunal received an email from the former tenant confirming a resolution had been reached with the agent and that all work had now been completed. On the same day an email was received from Mr Joseph Quaradeghini, the director of the landlord's agents. In that email the director confirmed that the re-enamelling of the bath had been completed and that a resolution had been reached with regard to the previous tenant regarding a settlement of any complaint which he had. The director of the letting agent enclosed a chain of emails between himself and the former tenant confirming that matters had been resolved to the entire satisfaction of the former tenant including payment of an agreed abatement of rent and the return of the tenant's deposit.
4. In the application by the tenant, the complaints with regards to disrepair related to allegations that the smoke alarms and heat detectors in the property were not working properly and that the fridge freezer had not been appropriately tested in respect of the portable appliance testing rules. The tenant also complained that the porcelain bath required to be re-enamelled.

Inspection and Hearing

5. The tribunal members attended at the property on 4 September 2018 to carry out the inspection. Mr Quaradeghini was present. The tribunal members were allowed access to the property by the new tenants.
6. The tribunal members carried out an inspection and particularly considered the matters raised in the application. Appropriate photographs were taken of the various items which had been the subject of complaint and a schedule of photographs is attached to this decision.
7. The tribunal members then attended at the Tribunal Office in Glasgow to conduct the hearing. Mr Quaradeghini was present at the hearing. The hearing was of very short duration. The tribunal members indicated to the landlord's agent that it was clear from the inspection that the various faults had been addressed and that the tribunal was minded to decide that it should exercise its powers in terms of the relevant provisions of the 2006 Act to continue the application despite the tenant having ended the tenancy and thereafter to make a finding that there was no breach of the repairing standard and that no order should be made. The landlord's agent confirmed he would be happy if such a procedure was followed.

8. Accordingly the tribunal members were happy to unanimously agree that they should proceed in the following manner.
9. With reference to paragraph 7 of schedule 2 of the 2006 Act, the tribunal noted that an application by a tenant is to be treated as being withdrawn if the tenancy concerned is lawfully terminated. In the case the tenancy was lawfully terminated prior to the inspection and hearing.
10. However in terms of paragraph 7 (3) if the application is withdrawn after it has been referred to the tribunal, the tribunal may decide to abandon consideration of the application or, despite the withdrawal , continue to determine the application.
11. In this case the tribunal determined they should continue to determine the application.
12. The tribunal thereafter unanimously agreed that all matters raised in the application by the tenant had been addressed. The landlord had produced evidence that the fridge freezer had been recently tested in terms of the portable appliance testing scheme. The landlord had provided evidence by means of an electrical installation condition report that appropriate works have been carried out to install appropriate smoke alarms in the lounge and heat alarm in the kitchen. In addition the other works shown as required in terms of the electrical installation condition report had also been completed by the landlord prior to the inspection. These works had not been raised by the tenant in the original application.
13. Further it was absolutely clear to the members of the tribunal during the inspection that the bath had been re-enamelled.
14. Accordingly the tribunal unanimously determined that the landlord had not failed to comply with the repairing standard and that they should determine that this application should be dismissed.
15. Accordingly the determination of the tribunal is that the property complies with the repairing standard and that the application should be dismissed.

Right of Appeal

16. 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. The party must seek permission to appeal within 30 days of the date the decision was sent to them.
17. 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 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

J Bauld

Signed ..



James Bauld, Chairperson

G Williams

Date 17 September 2018

Witness

GILLIAN WILLIAMS
COURT ADMINISTRATOR
7 WEST CLOUGH
GLASGOW

Housing and Property Chamber

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Photograph Schedule

Flat 0/2, 24 Greenlaw Avenue, Paisley, PA1 3RD

Case Reference: FTS/HPC/RP/18/1417

Date of inspection: 04/09/2018

Time of inspection: 10.00 am

Weather conditions: Clear and bright

Present: Mr Jim Bauld – Legal Member
Mr Nick Allan – Ordinary Member
Mr Joseph Quaradeghini – Managing Agent



Photo 1 – Front elevation



Photo 2 – Rear elevation



Photo 2 – Heat sensor in kitchen



Photo 3 – Smoke alarm in lounge



Photo 4 – Re-enamelled bath

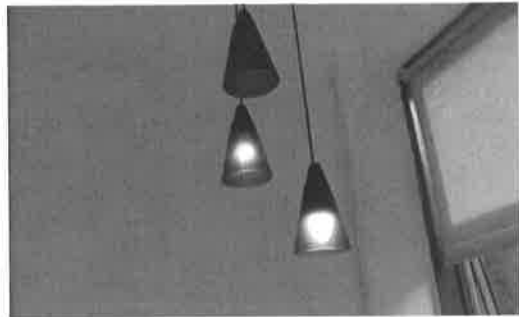


Photo 5 – Lights at kitchen sink

Nick Allan – Ordinary Member
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Housing and Property Chamber – 5th September 2018