



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

**Statement of Decision under section 24(1) of the Housing (Scotland) Act 2006
("the 2006 Act")**

PROPERTY AT Whitelea, Main Road, St Cyrus, Angus DD10 0BA ("the Property")

Case Reference FTS/HPC/RP/18/2225

- Ms Pauline Paterson formerly Whitelea, Main Road, St Cyrus, Angus DD10 0BA ("The Tenant")
- Mrs Pamela MacPherson, Thyme Property Developments Ltd, Rosebank Cottage, Drum, Kinross KY13 0UN; Where did this come from? I can't find any reference in the file.

The Tribunal comprised:-

Ms Gabrielle Miller	-	Legal Member
Mr David Godfrey	-	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 Landlord has complied with the duty imposed by Section 14(1)(b) in relation to the Property, determined that the Landlord had complied with the duty imposed by Section 14(1)(b) of the Act.

Background

1. By application dated 30th August 2018 and received by the Housing and Property Chamber on 31st August 2018. The Tenant applied to the Housing and Property Chamber for a determination as to whether the Landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").

2. The application by the Tenant stated that she considered that the Landlord had failed to comply with his duty to ensure that the Property met the Repairing Standard in that the Property is not wind and watertight and in all other respects reasonably fit for human habitation and that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order. In particular, the complaints consisted of:-
 - a) The roof was in a poor state of repair causing leaks into the utility room and kitchen;
 - b) There was no Electrical Installation Condition Report ("EICR")
3. By minute dated 3rd October 2018 the President intimated a decision to refer the application under Section 23(1) of the Act to a tribunal.
4. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord, the Tenant and the Landlord's solicitor dated 18th October 2018.
5. A date was set for both the inspection and hearing on 4th December 2018. This hearing was adjourned due to the unavailability of one of the Tribunal members. The hearing was rescheduled for 24th January 2019. This was then adjourned at the request of the Landlord's solicitor who emailed on 22nd January 2019 stating that the Landlord was on holiday and unable to attend the hearing. The hearing was again rescheduled with the inspection and hearing being set for 18th February 2019.
6. On 6th December 2018, the Tenant emailed to confirm that she had left the Property.

The Inspection

7. The Tribunal attended the property on the morning of 18th February 2019. Neither party was present but the Tribunal was given access to the Property by the new tenant, who is not a party to the case. It was a clear but windy day.
8. The House is a one and a half storey detached cottage with a single storey extension with a flat roof. The Property is located in the residential village of St Cyrus. The accommodation within the Property was unknown though the Tribunal had cause to be in the utility room, kitchen and sitting room. The extension houses the utility room and kitchen. Access to the Property is via a door to the right of the Property that leads into the utility room.
9. The Property was occupied with a new tenant and was furnished.
10. The utility room was inspected first. Damp staining could be seen on the ceiling. A damp meter reading was taken and found to be within the normal range. The

ceiling felt dry to touch. There was no evidence of dampness being an on going issue.

11. The kitchen was inspected next. Damp staining could be seen on the ceiling adjacent to one of the light fittings. A damp meter reading was taken and found to be within the normal range. The ceiling felt dry to touch around the light fitting. There was no evidence of dampness being an on going issue.
12. The flat roof above of the extension was inspected next. This is the roof that covers the kitchen and the utility room. It was seen that there had been work carried out to the roof in terms of the submitted invoice.
13. The fuse box which is located in the Hall cupboard was also inspected.
14. During the inspection photographs were taken by the Ordinary Member and a schedule of photographs is attached to this decision.
15. The inspection was concluded and the Tribunal travelled to the venue for the hearing.

The Hearing

16. The hearing took place at Hilltown Community Centre, Alexander Street, Dundee. Only the Landlord's solicitor was present.
17. The Landlord's solicitor attended and confirmed that all the work pertaining to the application had been completed. The Landlord's solicitor accepted that at the date that the Application was lodged with the Housing and Property Chamber that the Tenant would not have been in possession of an ECIR. However, the engineer had been out to the Property the day before the submission of the Application to carry out the appropriate tests within the Property and had informed the Tenant that a satisfactory certificate would be issued.
18. The Tribunal confirmed that as at the date of the inspection and hearing it considered that the Repairing Standard had been met for issues raised by the complaint.

Summary of the issues

19. The issues to be determined are:-
 - a) Whether the roof was in a poor state of repair causing leaks into the utility room and kitchen; and
 - b) Whether there was a current EICR.

Findings of fact

20. Having considered all the evidence, the Tribunal found the following facts to be established:-

- a) The tenancy commenced on 19th August 2013.
- b) The Tenant moved out of the House on or before 6th December 2018.
- c) As at the date of the inspection and hearing, there was a current ECIR.
- d) The roof had been repaired which had stopped the leaks to the utility room and kitchen.

Reasons for the decision

- 21. The Tribunal determined the application having regard to the terms of the application, the written representations received prior to the hearing, the findings of their inspection and the evidence of the current Tenant and Landlord's solicitor.
- 22. The Tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the application.
- 23. The Tribunal was satisfied that all the points raised in the application had been dealt with by the Landlord and that there were no outstanding issues. The Tribunal was satisfied that the Repairing Standard was met and that no further orders were necessary.

Decision

- (a) The Tribunal accordingly determined that the Landlord had complied with the duty imposed by Section 14(1)(b) of the Act.
- (b) The Tribunal did not need to issue any further orders.
- (c) The Tribunal did not need to take any further action.
- (d) The decision of the Tribunal was unanimous.

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.

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.

G Miller

G Miller, Chairperson and Legal Member
18th March 2019

Housing and Property Chamber

First-tier Tribunal for Scotland



PHOTOSHEET



Property: WHITELEA, MAIN ROAD, ST CYRUS, MONTROSE DD10 0BA

Ref no: FTS/HPC/RP/18/2225

Tribunal: Gabrielle Miller and David Godfrey

Inspection: The property was inspected at 10.00 am Monday 18th February 2019.

Access: The Tenant, Ms Pauline Paterson no longer resides in the property. Access to the property was provided by the new Tenant Laura Burns.

The Landlord, Thyme Property Developments Ltd was neither present nor represented.

Photographs

1. Electric meter/fuse box.
2. Damp meter reading from Utility Room ceiling.
3. Damp staining on Utility Room ceiling. (1)
4. Damp staining on Utility Room ceiling. (2)
5. Damp meter reading from Kitchen ceiling.
6. Flat roof covering.



Electric meter/fuse box



Damp meter reading from Utility Room ceiling



Damp staining on Utility Room ceiling. (1)



Damp staining on Utility Room ceiling. (2)



Damp meter reading from Kitchen ceiling



Flat roof covering

David Godfrey, MRICS
18th February 2019