

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 26 (1) of the Housing (Scotland) Act 2006

Property: 6 Midcroft Street, Glasgow G44 5RG (“the Property”/ “the house”)

Chamber Reference: FTS/HPC/RP/19/1361

Miss Kirstin Bryceland, sometime 6 Midcroft Street, Glasgow G44 5RG (“the Tenant”)

Mrs Maria Victoria Falcon Santana, c/o Avj Homes Estate and Letting Agents, 279 Castlemilk Road, Kingspark, Glasgow G44 4LE (“the Landlord”)

Tribunal Members – George Clark (Legal Member/Chairperson) and Greig Adams (Ordinary Member/Surveyor)

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) of the Housing (Scotland) Act 2006 (“the Act”), 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, received on 7 May 2019, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland 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 considered that the Landlord had failed to comply with their duty to ensure that the house meets the repairing standard.

In particular, the Tenant stated that the Landlord had failed to ensure that:-

- The house is wind and water tight and in all other respects fit for human habitation
 - 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
 - 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
 - Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order
 - Any furnishings provided by the landlord under the tenancy are capable of being used for the purpose for which they are designed
 - The house has satisfactory provision for detecting fire and for giving warning in the event of fire or suspected fire
 - the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health and
 - the house does not meet the tolerable standard.
3. In the application and its supporting documentation, the Tenant stated that the Property was infested with bugs in every room. The bugs left deposits which the tenant believed aggravated her asthma. There was mould around the window frame in the master bedroom. The water pressure in the bathroom was intermittent and sometimes little more than a trickle. The living room heater could not be used as the cord was of insufficient length to reach any wall sockets and it had never been checked by an electrician. The washing machine was broken and did not work. The cooker did not work properly and the handle on the oven door was broken, leaving a piece of metal exposed which heated up if the oven was used. The living room carpet was worn at the doorway and was a tripping hazard and, due to the bug infestation, the house did not meet the tolerable standard.
4. In addition to the items listed in the application, in a letter to the Landlord dated 8 April 2019, the Tenant added that the valve on the bathroom radiator was broken and the handle on the bathroom door had fallen off. An electrical safety check had been carried out on 2 April 2019, but the Tenant did not know whether all sockets in the Property and all of the electrical fittings had been checked. In particular, it was not clear if the sockets in the loft had been checked. These had previously been affected by a leak in the roof. The smoke detectors were not wired to the mains and there was no heat detector in the kitchen. The Landlord had not provided a carbon monoxide monitor in the kitchen.
5. In her written representations to the Tribunal, received on 20 June 2019, the Landlord stated that all the repairs had been carried out, although at times there had been difficulty in obtaining access to have the necessary work carried out. Any bug infestation had been caused by the pets that

the Tenant had kept in the Property and the mould issue had resulted from lack of proper ventilation. A new washing machine and a new cooker had been fitted. The Landlord attached a Domestic Electrical Installation Certificate from Gasman Energy, 59 Montrose Avenue, Glasgow, dated 24 April 2019.

6. The Tribunal inspected the Property on the morning of 23 July 2019. The Landlord was present at the inspection, but not at the subsequent hearing. The Tenant had vacated the Property, so was not present at the inspection or the subsequent hearing.
7. The Tribunal comprised George Clark (Legal Member/Chairperson) and Greig Adams (Ordinary Member/surveyor).
8. A schedule of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.

The Hearing

9. Following the inspection, the Tribunal held a Hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow.

Findings of Fact

10. The Tribunal makes the following findings of fact:
 - The Property is an upper flat in a block of four built by Western Heritable Investment Co. Ltd approximately 80 years ago.
 - The Tenant has vacated the Property, which has since been re-let.
 - There is no evidence of bugs in the Property.
 - There is no obvious or significant mould in the master bedroom.
 - The water pressure in the bathroom was tested at the inspection and found to be fairly strong.
 - A gas central heating system has been installed in the Property, so any electric heater would be supplementary and its condition irrelevant to the application.
 - There is no evidence that the washing machine is not working properly.
 - A new cooker has been installed in the Property.
 - The door handle in the bathroom is secure.
 - The carpet in the living room is securely fixed and is not a tripping hazard.
 - The thermostatic valve in the bathroom radiator has been replaced.
 - The Tribunal has seen a satisfactory Domestic Electrical Installation Certificate. Any circuit in the loft would be linked to the distribution board, which will have been tested in full as part of the preparation of the Certificate.

- There are new smoke detectors in the hall and living room and a heat detector in the kitchen. These are hard wired and in series.
- There is a carbon monoxide monitor adjacent to the cupboard in the second bedroom which houses the central heating boiler.

Reasons for Decision

11. The Tribunal was satisfied that none of the items of disrepair set out in the application, including those detailed in the letter from the Tenant to the Landlord of 8 April 2019 had been found at the inspection and that, to the extent that they had existed, they had been remedied by the Landlord.

12. The decision of the tribunal was unanimous.

Right of Appeal

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 Clark

Signed ..

Date: 23 July 2019

..... Legal Member/Chairperson

Schedule of Photographs
referred to in the
Factual Statement
of Decision
G Clark
Lynn Jenkins/CLJ
23 July 2019

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SCHEDULE OF PHOTOGRAPHS



1 Heat detector present within Kitchen.



2 New cooker.



3 New cooker.



4 New washing machine.



5 New washing machine.



6 Smoke detector in Living Room.



7 Wet central heating system.



8 Carpet floor covering within Living Room.



9 Central Heating installation.



10 Bedroom window.



11 Replacement thermostatic valve within Bathroom.



12 Bathroom door handle secure.



13 Wash basin – flow test.



14 Smoke detector in Hall.



15 Carbon Monoxide alarm



16. Boiler.



17 Consumer Unit.



18 Front Elevation.