

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

Chamber **Ref: FTS/HPC/RP/23/1373**

Land Register Title Number: LAN85131

Re Property at 11 George Street, Hamilton, ML3 0NU ("the Property")

The Parties: -

1. Mr. Garry Campbell, residing formerly at 11 George Street, Hamilton, ML3 0NU ("the Tenant") and
2. Dr Niccolo Capanni and Ms. Anita Jamieson residing care of Jewel Homes Limited, Atrium Business Centre, North Caldeen Road, Coatbridge, ML5 4EF the Landlords")

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") in relation to the Property, determined that the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Act, and therefore no Repairing Standard Enforcement Order requires to be made.

The Tribunal comprised: -

Mr. Andrew Cowan, Legal Member, and
Mr. Nick Allan, Ordinary Member (Surveyor)

Background

1. By an Application dated 1st February 2023, the Tenant applied to the First Tier Tribunal Housing and Property Chamber for a determination as to

whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing Scotland Act 2006.

2. In the Application the Tenant referenced a number of texts and emails between the Landlords and the Tenant in which the Tenant had complained that he did not consider that the Property met the Repairing Standard duty imposed by Section 14 (1)(b). The Tenant claimed that there was severe mould throughout the property which he stated was caused by a lack of ventilation and substandard window fittings. The Tenant also believed that the Property may also be affected by “structural dampness/mould”.
3. A Notice of Acceptance of the Application by the Tribunal was issued on 28th June 2023.

Hearing and Inspection

4. The Tribunal inspected the Property on the morning of 6th September 2023. The Tribunal were granted access to the Property by a member of staff from the Landlord’s Letting Agents. The Landlords and the Tenant did not attend the inspection.
5. A hearing took place at the Glasgow Tribunals Centre, 2- York Street, Glasgow at 11.45 on 6th September 2023. The Landlords attended the hearing and were represented at the hearing by their solicitor Ms. Linzi McQuade.
6. In advance of the hearing the Tribunal had been informed by the Landlords that the Tenant now vacated the Property. By email the Tribunal attempted to contact the Tenant to confirm whether the Tenancy had terminated and whether the Tenant wished to proceed with his Application. The Tenant did not respond to the Tribunal on these matters. The Tenant did not attend the hearing. The Tribunal were satisfied that the Tenant had been given proper notice of the Inspection and Hearing. The Tribunal determined to proceed with the hearing in the absence of the Tenant.
7. At the hearing the Tribunal outlined their observations from the inspection which had taken place earlier in the day.
8. The Tribunal explained that they had noted that there was no evidence of any dampness or mould within the Property. There was no evidence of mould or damp staining in the Property. The windows in the property were fitted with trickle vents (apart from the kitchen window). All the windows appeared to be generally in good order and working condition. The Tribunal tested the air quality using appropriate equipment and noted that the quality of the air was excellent. The Tribunal found no evidence to support the Tenants’ complaint that the Property was affected by severe mould.
9. In these circumstances the Tribunal determined that there was no evidence to establish any ongoing failure by the Landlords to ensure that the Property met the Repairing Standard in relation to the issues raised by the Tenant in the Application.

Findings in Fact

10. The Tribunal find the following facts to be established: -
 - a. The Property is not currently affected by dampness or mould.
 - b. The windows within the Property are in a reasonable state of repair and in proper working order.

Reasons for the Decision

11. The Tribunal noted that there is no current evidence of any dampness or mould within the property. There is no current evidence to support the Tenant's complaint in the Application.
12. The Tribunal accordingly determined that there was no requirement to make a repairing standard enforcement order in respect of the Property.

Right of Appeal

A Landlord, Tenant or third-party applicant 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.

Chairperson: Andrew Cowan

Date: 6th September 2023

