



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

Reference number: FTS/HPC/RT/20/0155

Re: Property at Flat 2/5, 15 Oswald Street, Glasgow G1 4PD (“House”)

The Parties:

Mamoun Alahmad, 15 Oswald Street, Glasgow G1 4PD (“Tenant”)

NJ Executor MAJ (Fusion Building) c/o Edzell Property Management, 1008 Pollokshaws Road, Shawlands, Glasgow G41 2HG (“Landlord”)

Edzell Property Management, 1008 Pollokshaws Road, Shawlands, Glasgow G41 2HG (“Landlord's Representative”)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) comprising: Joan Devine (Legal Member); Andrew McFarlane (Ordinary Member)

DECISION

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 (“Act”) in relation to the House and taking account of all the available evidence determines that the Landlord has not failed to comply with the duty imposed on them by Section 14(1)(b) of the Act. The Tribunal therefore declines to issue a repairing standard enforcement order. The Tribunal's decision is unanimous.

Background

1. By application dated 15 January 2020, the Tenant applied to the Tribunal for a determination that the Landlord had failed to comply with their duties under Section 14(1) of the Act.
2. In the application, the Tenant stated that he believed that the Landlord had failed to comply with their duty to ensure that the House met the repairing standard as set out in Sections 13(1) (c) of the Act. The application stated that the Landlord had failed to ensure that:

- 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, and
 - the House meets the tolerable standard
3. The Tenant made the following complaint in his application and in his notification communications to the Landlord :
 - the boiler was not working and required to be fixed or replaced.
 4. On 29 January 2020, the First-tier Tribunal for Scotland (Housing and Property Chamber) issued a Notice of Acceptance stating that the application paperwork comprising documents received on 17 January 2020 had been considered and no further documents or information was required before the application could be accepted for determination by the Tribunal.
 5. The Tenant removed from the House in February 2020. The Tribunal determined to allow the Application to continue. An inspection and hearing were scheduled to take place on 20 March 2020. The Landlord's Representative submitted a written representation dated 4 March 2020 in which they said that the boiler had been replaced. They said that works commenced on 21 January 2020. The inspection and hearing were delayed due to the COVID-19 pandemic.
 6. A Case Management Discussion (**CMD**) was arranged, in order to discuss further procedure in the case and to ascertain if an inspection was required or if other evidence was available or could be agreed.

Case Management Discussion

7. The CMD took place by way of conference call on 21 January 2021. Timothy Lovat of the Landlord's Representative was in attendance. He told the Tribunal that the boiler had been replaced. He said that an email had been sent to the Tribunal containing a checkout report and an invoice for the boiler. He said that the boiler was electric. He did not have a photograph of the boiler.
8. The Tribunal determined to review the information provided and issued a direction setting out what further documentation was required to allow the Tribunal to consider the Application. In terms of the direction the Tribunal requested sight of a picture of the boiler and a copy of the invoice for the supply and installation of the boiler.
9. By email dated 22 January 2021 the Landlord's Representative provided a photograph of the boiler. By email dated 1 March 2021 the Landlord's Representative provided a copy of an invoice dated 10 February 2020 for the supply and installation of the boiler.

The Evidence

10. The evidence before the Tribunal consisted of:

- 10.1 the application form completed by the Tenant;
- 10.2 Land Register report relating to the House;
- 10.3 emails of notification from the Tenant to the Landlord's agent notifying them of the issues complained about in the application;
- 10.4 copy checkout report for the House;
- 10.5 a photograph of a boiler;
- 10.6 a copy of an invoice dated 10 February 2020 for the supply and installation of a boiler at the House; and
- 10.7 the written and oral representations of the Landlord's Representative.

Summary of the Issues

11. The issue to be determined was whether the House meets the repairing standard as set out in Section 13 of the Act and whether the Landlord had complied with the duty imposed on them by Section 14(1)(b).

Findings of Fact

12. The Tribunal made the following findings in fact:

- 12.1 The Tenant of the House was Mamoun Al Ahmad in terms of a tenancy agreement between the Tenant and the Landlord dated 3 September 2019.
- 12.2 In terms of emails the Tenant intimated to the Landlord's Representative that work required to be carried out to the House for the purposes of ensuring that the Landlord complied with the duties imposed by section 14 (1) (b) of the Act.
- 12.3 The boiler in the House had been replaced on or about January 2020.

Reasons for the Decision

13. The documentation produced indicated that the boiler had been replaced at the House.

Decision

14. Having considered the documentation produced, The Tribunal determines that the Landlord had not failed to comply with the duty imposed by Section 14(1)(b) of the Act. The Tribunal therefore refused to make a repairing standard enforcement order as required by Section 24(2) of the Act.

Right of Appeal

15. A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only 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.

J Devine

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Date : 25 March 2021

Joan Devine, Legal Member