

Housing and Property Chamber First-tier Tribunal for Scotland



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”)

Chamber Reference: FTS/HPC/RP/21/2036

The Parties

Mr Josh Nicolson, 3 Sycamore Avenue, Scalloway, Shetland, ZE1 0UX (“Tenant”)

Mr Brian Nicolson, 18 Sycamore Avenue, Scalloway, Shetland, ZE1 0UX and Mr Kevin Nicolson, Havenside, Caludhame, Trondra, Shetland, ZE1 0XL (“The Landlords”)

Subjects: 3 Sycamore Avenue, Scalloway, Shetland, ZE1 0UX (“the House”)

Tribunal Members

Ms H Forbes (Legal Member)

Mr M Andrew (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) of the 2006 Act in relation to the House, determined that the Landlords have complied with the said duty.

Background

1. By application dated 20th August 2021, made under section 22 of the Housing (Scotland) Act 2006 (‘the Act’), the Tenant applied to the First Tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) for a determination as to whether the Landlords have failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (‘the Act’).
2. The Tenant considered that the Landlords had failed to comply with their duty to ensure that the House meets the repairing standard, in that the House is not wind and water tight and in all other respects reasonably fit for human

habitation; the installations in the Property 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; and any fixtures, fittings and appliances provided by the Landlords under the tenancy are not in a reasonable state of repair and in proper working order.

3. The Tenant listed the issues as follows:

Not wind and watertight - draughty windows and back door

Heating installation issues

Oil filled heaters faulty

Oven bottom element faulty

4. As part of the Application, the Tenant enclosed copy correspondence between the Tenant and the Landlords, and copy tenancy agreement.

5. The Tenant provided formal notification to the Landlords on 21st July 2021.

6. A decision to refer was made by a legal member with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber) on 27th August 2021.

7. The Landlords lodged written representations dated 9th and 29th September 2021, including productions.

8. A Case Management Discussion (“CMD”) took place by telephone conference on 19th October 2021. All parties were in attendance.

Wind and watertight – windows and back door

9. Parties confirmed that the condition of the House in this regard remains the same, however, the matter is capable of being resolved. The Landlords have instructed a contractor and offered dates to the Tenant.

Heating system

10. The Tenant confirmed that he has now changed supplier and the new heating system was wired up the previous day.

Electric heaters

11. The Tenant confirmed he had not notified the Landlords of this prior to submitting his application. The Landlords confirmed they have agreed to repair or replace the heaters.

Oven element

12. Parties confirmed that a new oven has been installed.

Further Procedure

13. It was agreed that a further CMD should be set down in 4 to 6 weeks to allow works to be carried out.
14. By email dated 2nd November 2021, the Landlords stated that works had been carried out to the windows and doors, and the electric heaters had been replaced. An invoice from a builder was lodged to that effect, showing that works were carried out on 22nd October 2021.
15. By email dated 29th November 2021, the Tenant withdrew his application.
16. On 30th November 2021, just prior to the CMD set down for that date, the Tribunal considered whether or not to continue the application. The Tribunal decided to continue consideration of the application to the CMD,

Case Management Discussion

17. A CMD took place on 30th November 2021. The Landlords were in attendance. The Landlords confirmed that the work had been carried out as notified and the Tenant had been satisfied with the works.

Decision

18. The Tribunal was satisfied having regard to all the available evidence that there was sufficient information and material upon which to reach a fair determination of the application. The Tribunal was satisfied that all issues had been addressed and that the House now meets the Repairing Standard. The Tribunal requires no further action to be taken, and no orders are necessary. The Tribunal accordingly determined that the Landlords have complied with the duty imposed by Section 14(1)(b) of the 2006 Act.

Right of Appeal

19. **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.**

H Forbes

Legal Member and Chairperson
Date: 30th November 2021