

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision: Housing (Scotland) Act 2006 Section 24(1)

Chamber Ref: FTS/HPC/RP/21/2212

7 Low Waters Road, Hamilton, ML3 7LG (“the Property”)

Parties:

Elizabeth Corrigan, 7 Low Waters Road, Hamilton, ML3 7LG (“the Tenant”)

Zubhair Ahmed, 3 Windmill Road, Hamilton, ML3 6LX (“the Landlord”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Nick Allen (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 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.

Background

- 1. The Tenant lodged an application in terms of Section 22 of the Housing (Scotland) Act 2006. The Tenant stated that the Landlord had failed to meet the repairing standard in relation to the property. In particular, the property was affected by water ingress and dampness and the ceilings in a bedroom and bathroom had collapsed. The Tenant lodged photographs and copy text messages in support of the application.**

2. Under normal circumstances the Tribunal would have arranged for the Tribunal to carry out an inspection of the property to assist in the determination by the Tribunal of the application. Because of the COVID 19 pandemic, a case management discussion (“CMD”) was arranged, to discuss procedure in the case and to ascertain if an inspection was required or if other evidence was available or could be agreed.
3. Prior to the CMD the Landlord’s agent notified the Tribunal that work had been carried out and evidence would be submitted.
4. The CMD took place by telephone conference call on 13 December 2021. The Landlord was represented by Mr Naeem Ahmed and Mr Shakil Ahmed. The Tenant participated, joining the call late, and was represented by Ms Young. Prior to the Tenant joining the call, Ms Young said that the Landlord had contacted the Tenant about repair work but that it had not yet been carried out. Mr Ahmed said that he had submitted invoices and other evidence that the repair work had now been carried out to the satisfaction of the Tenant. When she joined the call, Ms Corrigan said that roof repair work had been carried out and that the bedroom and bathroom which were affected had been re-plastered and painted. Both rooms were now useable.
5. Mr Ahmed said that he had submitted evidence, including a copy invoice from the roofing contractor, on 1 December 2021. This had been acknowledged by the Tribunal caseworker on 2 December 2021. The Tribunal noted that the evidence had not been circulated to either Member of the Tribunal or Ms Young. Mr Ahmed provided the Tribunal with some information about the repair work which included the replacement of damaged and missing slates and replacement flashing.
6. Following discussion with the parties, the Tribunal concluded that a decision on the next course of action could only be made once the Tribunal and the Tenant had reviewed the evidence submitted by the Landlord. The Tribunal determined that the evidence should be circulated, and the Tenant and her representative should provide comments and representations regarding same within 7 days of receipt. The Tribunal would then decide whether a decision on the application could be made or if an inspection and hearing were required.
7. Following the CMD, the evidence submitted by the Landlord was circulated. This comprised a written submission and invoice from Bardyke Builders dated 20 November 2021 for roof repair and internal re-instatement work. The Tenant’s representative responded, stating that the Tenant was not satisfied that all issues had been resolved. She said that water ingress from the roof was ongoing, that insulation in the roof space had been damaged by the water ingress and that tiling in the bathroom was loose. In response, the landlord notified the Tribunal that Bardyke Builders had returned to the property where they met with the

Landlord's representatives and the Tenant. A short report from the contractor was submitted. This states that they had erected scaffolding at the property to investigate the complaint. They stripped off some slates and found a damp patch. It became evidence that some slates did not have enough cover. These were replaced. They checked the loft area and found no evidence of damp. They were not aware of loose tiles in the bathroom.

8. The Tribunal determined that an inspection and hearing should be arranged. The parties were notified that these would take place on 8 and 15 March 2022. These were cancelled for COVID 19 reasons, as were inspections and hearings arranged for 22 April and 13 May 2022. The Tribunal inspected the property on 5 July 2022. The Tenant provided access and the Landlord's representative, Naeem Ahmed, attended. Thereafter a hearing took place by telephone conference call at 2.30pm on 5 July 2022. The Tenant, her representative Ms Young and Mr Naeem Ahmed participated.

The Inspection

9. The Tribunal inspected the bathroom on the upper floor. No evidence of dampness or water ingress was detected. There was evidence of historic staining on the ceiling above the stairs and in the small bedroom. The Tribunal also noted evidence of a ceiling repair in the main bedroom, and a wall repair in the small bedroom. Moisture readings were taken, and all found to be within normal (green) levels, except for a small section of wall in the small bedroom which recorded minor dampness. The Tribunal did not inspect the insulation in the roof space or the tiling in the lower bathroom, as these complaints did not form part of the application. An inspection report, with photographs, is attached to this decision.

The Hearing

10. Ms Young advised the Tribunal that Mrs Corrigan is now satisfied that the work carried out has returned the property to a tenantable standard. She said that the work had taken much longer to complete than was acceptable and it was only when the Tenant made the application to the Tribunal that the work was carried out. Mr Ahmed advised the Tribunal that the pandemic had made it very difficult to get the work done as there had been no contractors available. Mrs Corrigan disputed this. She said that there have been problems with water ingress since 2016 and although minor repairs were carried out, these did not resolve the issue. However, she confirmed that the repair work carried out in November 2021 and January 2022 appears to have been successful.

11. The Tribunal advised the parties that a number of additional issues had been noted during the inspection. The light fitting in the bathroom is inappropriate for this room and the smoke alarms in the property do not comply with current regulations and guidance. In particular, they are not interlinked and there is no smoke alarm in the living room or heat detector in the kitchen. The absence of a CO detector was also noted. As these issues are not in the application, they cannot be considered by the Tribunal. However, The Tribunal recommended that they be addressed as a matter of urgency. Mr Ahmed said that he has already contacted an electrician in this regard.

Findings in Fact

12. The Landlord has carried out remedial work to the property which has addressed the dampness and water ingress which previously affected the upper hallway, bedrooms, and bathroom.
13. The property is not currently affected by water ingress or dampness, except for a small section of wall in the smaller bedroom which recorded minor dampness

Reason for decision

14. The Tribunal considered the issues of disrepair set out in the application and the information and evidence provided by the parties.
15. Section 14(1) of the 2006 Act states “The landlord in a tenancy must ensure that the house meets the repairing standard – (a) at the start of the tenancy, and (b) at all times during the tenancy.” In terms of Section 3 of the 2006 Act “The duty imposed by subsection (1)(b) applies only where – (a) the tenant notifies the landlord, or (b) the landlord otherwise becomes aware, that work requires to be carried out for the purposes of complying with it” The Tribunal is satisfied that the former Tenant notified the Landlord of the repairs issues at the property prior to lodging the application.
16. The Tenant lodged photographs with the application which showed that the property had suffered extensive damage because of water ingress. This resulted in the ceilings collapsing in the upper bathroom and bedrooms, in 2019 and 2020. The parties are agreed that the roof repair work carried out in November 2021 and January 2022 has addressed

E Munroe

so determined.

J Bonnar

Josephine Bonnar, Legal Member

10 July 2022