



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

Chamber Ref: FTS/HPC/RP/23/1697

Re: Property at Standalane Farmhouse, Peebles (“the Property”)

Parties:

Ms Katie Welsh, Mr Scott Dean, formerly Standalane Farmhouse, Peebles, EH45 8PQ (“The Tenants”)

Lord Wemyss' Trust – The Second Grandchildren’s Fund, Wemyss and March Estates, Estate Office, Gosford House, Longniddry, EH32 0PY (“The Landlords”)

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

Decision

The First-tier Tribunal for Scotland Housing and Property Chamber, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 determined that the Landlords have not failed to comply with that duty.

Background

1. By application, dated 23 May 2023, the Tenants applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland (“the Tribunal”) for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The Tribunal was subsequently advised that the Tenants had vacated the Property. Accordingly, they were deemed to have withdrawn the application, but on 24 August 2023, the Tribunal decided to continue to consider it, as the failures alleged, if established, would potentially have health and safety implications for any replacement tenants.

3. The application referred to a list of 49 items of disrepair.
4. Prior to the Inspection and Hearing, the Landlords provided a substantial number of documents to the Tribunal, including a Gas Safety Certificate dated 7 September 2023, and an Electrical Installation Condition Report (“EICR”), provided by a SELECT-registered electrician, which contained no C1 or C2 items of disrepair and gave an overall assessment of “Satisfactory”. They also provided a Report dated 5 September 2023 from Valentine Property Services Ltd, Edinburgh, which contained a number of recommendations, and a Test Report from Scottish Water dated 29 June 2022.

The Inspection

5. The Tribunal inspected the Property on the morning of 21 September 2023. The Tenants, having vacated the Property, are no longer Parties in the application, so were not present or represented. The Landlords were represented by their Estate Factor, Mr Martin Andrews. A Schedule of Photographs, taken at the inspection, is appended to and forms part of this Statement of Decision.

The Hearing

6. Following the inspection, a Hearing was held at George House, 126 George Street, Edinburgh on the afternoon of the same day. The Landlords were represented by Mr Andrews and by Ms Alexandra Wooley, Trainee solicitor, of Bannatyne Kirkwood France & Co, solicitors, Glasgow. The Tribunal Members advised those attending that, based on the Inspection they had carried out, they did not intend to make a Repairing Standard Enforcement Order, but that they would be making a number of advisory comments.

Reasons for Decision

7. The Property is vacant and unfurnished, and it appears that the Landlords have been carrying out a number of repairs. The carpets have been removed and it is clear that a fair amount of cosmetic work will be required before it can be re-let.
8. The Tribunal noted that many of the items of disrepair on the list provided by the former tenant were very minor in nature and also that a significant number of them have been remedied. Lead flashing that had fallen from the roof has been replaced and guttering cleaned out, door handles and locks have been repaired and the toilet bowl and tap in the scullery have been replaced. The showers in the bathroom and en-suite are operating satisfactorily and at the time of the inspection, the heating was in operation and the house was warm.

Matters relating to lights, the RCD unit and smoke detectors are covered by the EICR and a complaint about the boiler not having been serviced was covered by the Gas Safety Certificate. A cracked window has also been repaired. Complaints relating to dampness and water staining were covered in the report from Valentine Property Services.

9. The view of the Tribunal was that water staining in the Property was historic. The Property would benefit from redecoration and at that time, mould which is apparent should be removed and suitable fungicidal treatment applied. Dampness noted on the ground floor appears to be condensation.
10. The Tribunal did not consider that any of the items that remained from the list provided by the former tenant merited the making of a Repairing Standard Enforcement Order. The Tribunal would, however, advise the Landlords to instruct a suitably qualified electrical contractor to properly attach the junction box to the external gable wall, to follow the recommendations in the Valentine Property Services report and to treat or replace the timber lintel above the door of the shed and attend to decayed timber on the windowsill of the master bedroom.

Decision

11. Having considered carefully all the evidence before it, the Tribunal decided that the Landlords have not failed to comply with the duties imposed by Section 14(1)(b) of the 2006 Act.

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

Legal Member

26 September 2023
Date

