

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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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: **FDS/HPC/RT/23/0389**

Land Register Title Number: STG17414

Re Property at 7 Watt Gardens, Camelon, Falkirk, FK1 4DB ("the Property")

The Parties: -

1. Falkirk Council, per their employee, Mr. Craig Beatt, Private Sector Officer (Enforcement and Liaison), Callander Business Park, Falkirk, FK1 1XR, as third party applicant in terms of section 22(1A) of the Act ("the Third Party Applicant") and
2. Ms. Kristina Kralikaite and Mr. Linas Rutkunas both residing at 11 Ladeside Crescent, Stenhousemuir, Larbert, FK5 3DG ("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 not failed to comply with the duty imposed by Section 14 (1)(b) of the Act, and therefore that no Repairing Standard Enforcement Order requires to be made.

The Tribunal comprised: -

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

### Background

1. By an application dated 8 February 2023, the Third Party Applicant

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. The application referenced a letter issued by the Third Party Applicant to the Landlords dated 22 December 2022, which specified that the Third Party Applicant did not consider that the Property met the Repairing Standard duty imposed by Section 14 (1)(b) of the Act as the following work needed to be carried out at the Property (in summary): -
  - a) Fit smoke and heat detectors in the Property to comply with current Scottish Government Statutory Guidelines.
  - b) Provide a copy of a Current Electrical installation Condition Report.
  - c) Provide a copy of a current Gas Safety Certificate.
  - d) Fix a carbon monoxide detector.
  - e) Repair dampness in the wall of the living room and of the bedroom.
  - f) Repair a leaking radiator in the living room.
  - g) Repair wooden flooring in the living room and hallway.
  - h) Repair the gap in the wall where the flu from the Central Heating Boiler extends through the exterior wall of the kitchen.
3. Notice of Referral to the Tribunal under section 23 (1) of the Act were sent to the parties on 8<sup>th</sup> March 2023.

### **Hearing and Inspection**

4. The tribunal inspected the Property on the morning of 4<sup>th</sup> May 2023. Ms. Kralikaite was present during the inspection. The Third Party Applicant was not represented at the inspection.
5. Photographs were taken by the tribunal during the inspection. Copies of the photographs are attached as a schedule to this statement of decision.
6. A hearing took place by teleconference at 11.45 on 4<sup>th</sup> May 2023. The Third Party Applicant was represented by Mr. Craig Beatt. One of the Landlords, Ms. Kralikaite, also attended the Hearing and confirmed that she also represented Mr. Rutkunas. Miss Carol Ray an Environmental Health Officer with Falkirk Council also joined the call as an observer.
7. In advance of the hearing the tribunal had been informed that a previous tenant of the Property had now vacated the Property.
8. At the hearing the tribunal outlined their observations from the inspection which had taken place earlier in the day.
  - a. The tribunal had noted that smoke detectors were now fitted in the living room and hall of the Property and that a heat detector was installed in the

kitchen. These detectors were tested and found to be functioning correctly and were interlinked.

- b. The tribunal had noted that a Carbon Monoxide Detector had been correctly fitted in the kitchen of the Property.
  - c. The tribunal had noted that an electrical installation condition report had been obtained by the Landlord. (At the hearing Mr. Beatt confirmed that he had received a copy of that electrical installation condition report and that it was in satisfactory terms).
  - d. The tribunal had noted that the Landlord now had a Gas Safety Certificate in respect of the Property. (At the hearing Mr. Beatt confirmed that he had received a copy of that gas safety condition report and that it was in satisfactory terms).
  - e. The tribunal had noted that the Central Heating Radiator in the Living Room appeared to have been repaired and was not leaking.
  - f. Having tested the walls in the living room and bedroom of the Property with a damp meter, the tribunal had been unable to establish any significant dampness in either of these rooms.
  - g. The tribunal had not identified any particular fault or disrepair in connection with the wooden flooring in the living room or hall.
  - h. The tribunal had noted that the gap in the wall (where the flu from the central heating boiler extends through the exterior wall at the kitchen of the Property) had been repaired appropriately.
9. Mr. Beatt accepted the observations of the tribunal from their inspection of the Property, and indicated that he was satisfied that the matters raised in the application had been attended to by the Landlords.

## **Findings in Fact**

10. The Tribunal find the following facts to be established: -

- a. the Property has appropriate smoke and heat detectors installed in compliance with the existing Scottish Government statutory guidelines
- b. The Landlord holds a current Electrical Installation Condition Report for the Property.
- c. The Landlord holds a current Gas Safety Certificate in respect of the Property.
- d. A Carbon Monoxide Detector has been installed in the Property.
- e. There is no significant dampness in the wall of the living room or in the bedroom of the Property.
- f. The wooden flooring in the living room and hallway of the Property is in a reasonable state of repair.

## **Reasons for the Decision**

11. The tribunal noted that the Landlords have carried out works to the Property since the date of the application. The works carried out by the Landlord had addressed the issues raised by the Third-Party Applicant in their 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.

A Cowan

Signature:

Chairperson: Andrew Cowan

Date: 4<sup>th</sup> May 2023



## Pre-hearing Inspection Summary and Schedule of Photographs



**Property** – 7 Watt Gardens, Camelon, Falkirk, FK1 4DB.

**Reference**- FTS/HPC/RT/23/0389

**Tribunal Members** – Andrew Cowan (Legal Member) & Andrew Taylor (Ordinary Member)

**Purpose of Inspection** – To prepare a record of the position at the property specifically as it relates to the items raised in the application and any issues arising therefrom.

**Access** – 10.00am, 4<sup>th</sup> May 2023

**Weather** – Clear, dry and windy

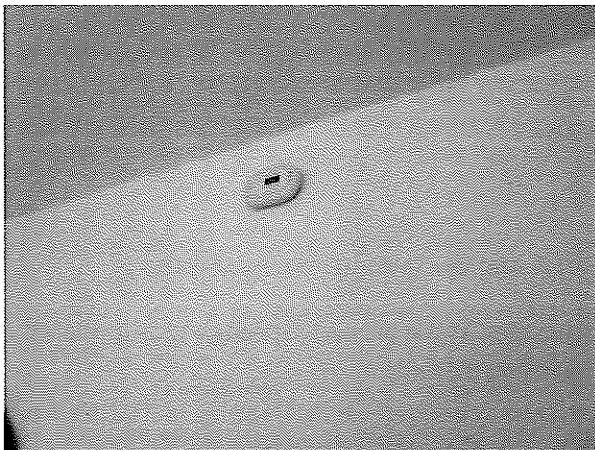
**In Attendance** – The above Tribunal Members attended the property. Also in attendance was Ms. K Kralikaite - Landlord

## Appendix 1

Schedule of Photographs taken during the Inspection on 4<sup>th</sup> May 2023



1. Heat detector - kitchen.



2. Carbon Monoxide Detector – kitchen.



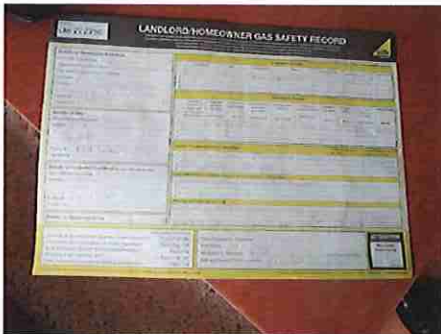
3. Making good at boiler flue.



4. Radiator, wall and flue at Living Room.



5. Moisture meter reading – Living Room Wall.



6. Gas safety certificate.



7. Pointing to external wall.

**Andrew Taylor MRICS,**

**Surveyor Member, Housing and Property Chamber, First-tier Tribunal for Scotland**

**4th May 2023**