

# 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: FTS/HPC/RT/23/1921**

Land Register Title Number: STG52733

Re Property at 4 Abbotsford Drive, Grangemouth FK3 9LJ ("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. Mr. John Erskine, residing at Fairview Cottage, Main Road, Maddiston, Falkirk FK2 0LJ ("the Landlord")
3. Mr. David Carbis, residing at 4 Abbotsford Drive, Grangemouth FK3 9LJ ("the Tenant")

### 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. Mike Links, Ordinary Member (Surveyor)

## **Background**

1. By an application dated 13<sup>th</sup> June 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 12<sup>th</sup> May 2023, 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 together with a Portable Appliance Test Certificate.
  - c) Provide a copy of a current Gas Safety Certificate (if applicable)
4. A notice of Referral to the Tribunal was issued under section 23 (1) of the Act. Parties were issued with a notice of referral, inspection and hearing by letter dated 1<sup>st</sup> August 2023.

## **Hearing and Inspection**

5. The tribunal inspected the Property on the morning of 15<sup>th</sup> September 2023. The Tenant, and Mr. Craig Beatt (representing the Third Party Applicant) were present during the inspection. The Landlord was not represented at the inspection.
6. A hearing took place at STEP Stirling, Stirling Enterprise Park, Stirling at 11.45 on 15<sup>th</sup> September 2023. The Third Party Applicant was represented at the hearing by Mr. Craig Beatt. The Landlord was present at the hearing. The Tenant did not attend the hearing.
7. 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 and heat detectors were now fitted in the Property. These detectors were tested and found to be functioning correctly and were interlinked.
  - b. The tribunal had noted that the Property has no gas supply and accordingly no gas safety certificate is required.
  - c. The tribunal had noted that certain upgrade works had been completed to the main fusebox at the Property. The tribunal had now received an electrical installation condition report (including a PAT testing report) dated 5<sup>th</sup> September 2023 from the Landlord. That report confirmed that the overall assessment of the electrical installations at the Property was satisfactory.

8. Mr. Beatt and the Landlord accepted the observations of the tribunal from their inspection of the Property. Mr. Beatt indicated that he was satisfied that the matters raised in the application had been attended to by the Landlord.

### **Findings in Fact**

9. 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 Property does not require a gas safety certificate.

### **Reasons for the Decision**

10. 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 have addressed the issues raised by the Third-Party Applicant in their application.
11. 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: 15<sup>th</sup> September 2023