

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section ** of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RT/21/3042

Property Address: 1/1, 185 Clepington Road, Dundee DD3 7TA (“the property”)

The Parties: Muriel Cochrane, 1/1, 185 Clepington Road, Dundee DD3 7TA (“the tenant”)

City of Dundee Council, 5 City Square, Dundee DD3 3BA (“third party applicant”)

Mr Graham Carling, Discovery Estates No. 1, 52A Church Street, Broughty Ferry, Dundee DD5 1HB (“the respondent”)

Tribunal Members:

Mr M Thorley (Legal)

Mr A Taylor (Ordinary)

The Tribunal, having made such enquiries as is fit for the purpose of determining whether the respondent has complied with the duties imposed upon him by section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the property concerned, and taking account of the evidence presented in the written representations and following upon the inspection and further information received determined that the respondent has complied with the duties imposed by section 14(1)(b) of the Act and dismisses the application.

Background

1. An application was made by the third party applicant. Further information was sought by the Tribunal and on 28 February 2022 the application was accepted for determination by the Tribunal.
2. An inspection took place on 4 July 2022.
3. The issues highlighted were as follows:

- (i) Livingroom window not wind tight.
 - (ii) Front door not wind tight.
 - (iii) Lock on front door not repaired.
 - (iv) Kickboard in kitchen beside tumble dryer missing.
4. The Tribunal inspected the property on Monday 4 July 2022 at 10 am. The weather was dry and sunny.
5. The property is on the first floor of a block of flats.
- Livingroom windows were checked. They were found to be secure and wind tight. They have been repaired.
 - Kitchen - there is a kickboard now in the kitchen. It was not secured but is present.
 - Hallway – the front door is wind tight but the lock on the front door is not secure.

Hearing

At the hearing the following persons attended –

- Mr Byron Young, Dundee City Council, third party applicant
- Mr Jay Lawson, MML Solicitors

A further matter that had not been contained within the original application had been identified namely in relation to the boiler.

Further information received –

Gas safety record document dated 10 November 2021.

The invoice from the locksmith confirmed that the front door had been secured.

There was an invoice dated 31 August 2022 regarding the boiler which indicated it had been topped up and reset. That together with the gas safety record dated 10 November 2022 confirmed that the boiler was in working order.

The livingroom windows are wind tight.

The front door is wind tight.

The lock on the front door has been repaired.

The kickboards have been repaired.

The boiler is in working order.

Reasons for decision

1. In considering the repairing standard the Tribunal carried out an internal inspection of the building. In addition the Tribunal considered the rent documentation that had been provided and subsequent written information.
2. It was noted that the two outstanding issues arising from the inspection had now been dealt with namely the lock on the front door and in addition to that the boiler had been checked and confirmed as in working order.

Decision

The Tribunal considered the terms of section 13(2) of the Act and determined that the respondent has complied with the duty imposed by section 14(1)(b) of the Act.

The Tribunal accordingly dismisses the application.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.

Legal Member:

Date: 29 September 2022