

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 Reference Number: FTS/HPC/RP/22/4193

Title Number: GLA 173662

52 Quarry Knowe Street, 2/3, Glasgow, G31 5LE (“the Property”)

Parties:

Flavia Ruggiero, 52 Quarry Knowe Street, 2/3, Glasgow (“the Tenant”)

Andrew Alex Wood c/o 1-2 Let, 104 Bellgrove Street, Glasgow (“the Landlord”)

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.

The Tribunal comprised: -

Josephine Bonnar, Legal Member

Nick Allan, Ordinary Member

Background

- 1. The Tenant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for a determination of whether the**

Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”).

2. The application states that the Landlord has failed to ensure that (i) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; (ii) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in reasonable state of repair and in proper working order; and (iii) that the house meets the tolerable standard. Specifically, the Tenant complained of mould, condensation, and defective heating.
3. The First-tier Tribunal for Scotland served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the parties on 19 October 2022. The parties were notified that an inspection would take place on 2 March 2023 at 10am and a hearing by telephone conference call on 2 March 2023 at 2pm.
4. Prior to the inspection and hearing, both parties lodged written representations. On 8 February 2023, the Tenant notified the Tribunal that work had been carried out at the property and that she wished to withdraw the application. The Tribunal considered the withdrawal request and determined that the application should continue to a determination in terms of Schedule 2 Paragraph 7(3) of the Act. A Minute of Continuation was issued to the Landlord.
5. The Tribunal inspected the property on 2 March 2023. Access was provided by the Tenant. Mr Stirling from the Landlord’s letting agency also attended. The Tribunal held a hearing by telephone conference call at 2pm on 2 March 2023. The Landlord participated and was represented by Ms McIvor.

The Inspection

6. At the time of the inspection the weather was dry and overcast. The Tribunal inspected the property, which is a second floor two-bedroom flat comprising a hallway, kitchen, bathroom, living room and two bedrooms. The Tribunal noted the following: - (1) new, programmable, wall mounted electric heaters in the living room, both bedrooms and the hall. These were on during the inspection and the flat appeared warm. (2) No evidence of mould or condensation was visible in any of the rooms. Damp meter readings were within normal levels. (3) Extractor fans in both kitchen and bathroom appeared to be in working order. (4) Trickle vents on all windows were in the open position. Mr Stirling advised the Tribunal that loft insulation had been re-instated, mould had been cleaned from walls and the walls repainted.

The Hearing

7. Ms McIvor referred the Tribunal to the report from Peter Cox which the Tenant had lodged with the application. She stated that this report had identified certain required work at the property. As recommended in the report, the Landlord arranged for the following to be carried out:- insulating foil re-instated between the rafters around external perimeter and additional insulating wool added; areas of mould in living room and bedrooms cleaned and treated with mould killer and antifungal paint; bathroom extractor replaced; kitchen extractor cleaned out; filter replaced in extractor hood; new, programmable wall heaters installed; mastic replaced on external window; trickle vents cleaned out; dehumidifier provided.
8. Ms McIvor told the Tribunal that the Tenant was provided with advice. Specifically, she was advised to limit the drying of clothes within the property. Mr Wood told the Tribunal that there is a washer/dryer in the property. There is also an outside area, but the residents don't seem to use it for drying clothes. Ms McIvor also told the Tribunal that secondary glazing has been fitted to the bedroom window although it is accepted that this is not a long-term solution. She stated that the work recommended in the report has been carried out. It was completed recently and took about 2 weeks. The only outstanding issue is a roof repair which is in the hands of the Property Factor. A compliant has been made about the delay in this repair being arranged. Mr Wood has paid his share of the work.

Findings in Fact

9. The property is two-bedroom second floor flat.
10. The property is not currently affected by condensation or mould.
11. The electric heaters at the property are in working order.

Reasons for decision

12. The Tribunal considered the issues of disrepair set out in the application, the condition of the property during the inspection and the evidence led at the hearing.
13. 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 Tenant notified the Landlord of the repair issues at the property.

14. The application was submitted with a copy of a report from Peter Cox dated 17 January 2022, which recommended remedial work to address mould and condensation at the property. On 8 February 2023, the Tenant notified the Tribunal that contractors had carried out work at the property which appeared to have resolved the issues specified in the application. At the inspection of the property by the Tribunal, there was no evidence of condensation or mould, and the previously affected areas had been repainted. New wall mounted heaters had also been installed which appeared to be in working order. During the hearing the Tribunal was provided with full details of the work, which was carried out in February 2023 by the Landlord’s contractor.

15. The Tribunal is therefore satisfied that the Landlord has not failed to comply with the duties imposed by section 14(1)(b) of the 2006 Act and therefore does not require to issue a repairing standard enforcement order in relation to the property.

Decision

16. The Tribunal determined that the Landlord has not failed to comply with the duty imposed by Section 14(1)(b) of the Act.

17. The decision of the Tribunal is unanimous.

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.

In terms of Section 63 of the Act, 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.

Josephine Bonnar, Legal Member

10 March 2023