

Housing and Property Chamber First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

STATEMENT OF DECISION: in terms of Section 24(1) of the Housing (Scotland) Act 2006 ("the Act") in respect of an application under Section 22(1) of the Act 2006

Chamber Reference number: FTS/HPC/RP/18/0532

Parties: Miss Wilma Anderson residing formerly at Flat1-5, 22 Turnbull Street, Glasgow G1 5PR ("the Tenant") and represented by Mr Stephen Wishart, Shelter Scotland, 116 Osborne Street, Glasgow G1 5QH ("the Tenant's Representative")

And

Mr James Sheffield, sometime of 19 Stamperland Cresecent, Clarkston, Glasgow, G76 8LQ and now of 4, Pollock Morris Drive, Kilmarnock, KA2 0EJ ("the Landlord") and represented by Speirs Gumley Residential Letting, 194, Bath Street, Glasgow, G2 4LE ("the Landlord's Agents")

Property: Flat1-5, 22 Turnbull Street, Glasgow G1 5PR registered in the Land Register of Scotland under Title Number GLA166019

Tribunal Members

Karen Moore (Chairperson)

Andrew Murray (Ordinary Member)

Background

1. By application comprising an application form and supporting copy emails and correspondence between and amongst the parties and their representatives received between 12 March 2018 and 4 April 2018 ("the Application"), the Tenant's Representative applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on it by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1) (c), 13(1) (d) and 13(1) (e) of the Act.

2. Specifically, the Application stated that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard for the following reasons:-
 - The banister is not fixed to the wall;
 - The bathroom extractor fan does not work properly;
 - The socket in the bedroom does not work properly;
 - The bathroom door requires to be eased as it does not close;
 - There are damaged tiles;
 - The en suite toilet does not work properly and floods the bathroom;
 - The heating in the Property does not function properly
 - The paintwork is dirty;
 - The previous occupants' belongings are in the Property and
 - The Property was not cleaned until after the tenancy commenced.
3. The Tenant's Representative intimated to the Chamber that the tenant had vacated the Property on 26 March 2018. A Convener of the Chamber, with delegated powers under Section 96 of the Housing (Scotland) Act 2014 and Section 21 (8A) of the Act, having considered the Application, determined to continue the Application in terms of Schedule 2, Paragraph 7(1) and issued a Minute of Continuation dated 10 April 2018 to the Landlord and the Landlord's Agents.
4. A Convener of the Chamber, with delegated powers under Section 96 of the Housing (Scotland) Act 2014 and Section 21 (8A) of the Act, having considered the application in terms of Section 23(3) of the Act and having determined to continue the Application in terms of Schedule 2, Paragraph 7 (2) of the act, intimated to all parties by Notice of Referral dated 10 14 May 2018 a decision under Section 23 (1) of the Act to refer the Application to a tribunal, and, in terms of Schedule 2, Paragraph 1 of the Act fixed an Inspection and Hearing for 20 June 2018 at 10.00 a.m. and 11.30 a.m., respectively.

Inspection

5. The Inspection took place on 20 June 2018 at 10.00 a.m. at the Property. The Landlord was not present at the Inspection and was represented by the Landlord's Agents, namely by Mr. Robert Nixon and Ms Lauren Whittle. The tribunal inspected the Property in respect of all of the matters complained of in the Application, as narrated in paragraph 2 hereof.
6. At the Inspection, the tribunal took digital photographs which photographs form the Schedule annexed to this decision.

Hearing

7. Following the Inspection, a Hearing was held in the Glasgow Tribunal Centre, 20, York Street, Glasgow, G2 8GT on the same day at 11.30 a.m. Mr. Nixon and Ms Whittle of the Landlord's Agents were present at the Hearing.
8. At the Hearing, on behalf of the Landlord, Mr. Nixon submitted that in the view of the Landlord and the Landlord's Agents any matters complained of by the Tenant had been addressed.

Summary of the Issues

9. The issues to be determined by the tribunal are whether or not the Property meets the Repairing Standard in respect of Sections 13(1) (c), 13(1) (d), and 13(1) (e) of the Act at the date of the Inspection and Hearing.

Findings of Fact

10. Mr James Sheffield, sometime of 19 Stamperland Crescent, Clarkston, Glasgow, G76 8LQ and now of 4, Pollock Morris Drive, Kilmarnock, KA2 0EJ is the owner of the Property and the Landlord. Miss Wilma Anderson had been the Tenant.
11. The Property is a duplex flat on the second and third floors of building constructed circa 1900 and converted into a modern flatted development circa 2000. The Property comprises an open plan living area, bedroom and bathroom on the lower floor and an open plan living area and bedrooms with en suite on the upper floor. The Property is accessed from an internal court yard which in turn is accessed by an internal stairway in the main building of which the Property forms part.
12. From the Inspection, the tribunal found the following in respect of the matters specifically complained of in the Application:
 - The banister serving the stair to the upper floor is fixed and secured to the wall;
 - The bathroom extractor appears to be in working order;
 - The socket in the bedroom appears to be in working order;
 - The bathroom door appears to close properly;
 - There are no damaged tiles;
 - The en suite toilet appears to be in working order and there was no evidence of flooding the bathroom;
 - The heating in the Property appears to be in working order.

The tribunal did not inspect the other matters complained of being dirty paintwork, the previous occupants' belongings and the cleanliness of the Property as these are matters outwith the scope of the Repairing Standard.

Decision of the tribunal and reasons for the decision.

12. The tribunal's decision is based on the Application with supporting documents, the Inspection and the Hearing.
13. In respect of Section 13(1) (c) of the Act, the tribunal found that at the date of the Hearing the Landlord had not failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reasons being that the tribunal was satisfied that the heating, the socket in the bedroom and the en suite toilet are in working order and so the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair .
14. In respect of Section 13(1) (d) of the Act, the Committee found that at the date of the Hearing the Landlord had not failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the banister is secure and the extractor fan is in working order and so the fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
15. In respect of Section 13(1) (e) of the Act, the Committee found that at the date of the Hearing the Landlord had not failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that no complaint was evidenced in this regard.
16. The decision was unanimous.

Repairing Standard Enforcement Order

17. Having determined that the Landlord had not failed to comply with the duty imposed by section 14(1) (b), there was no requirement on the tribunal to make a Repairing Standard Enforcement Order as required by Section 24 (1) of the Act.

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.

Effect of Section 63

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.

Karen Moore

Chairperson

26 June 2018

Glasgow 26 June 2018

This is the Schedule of Photographs referred to
in the foregoing decision

Photographic Schedule – 22 Turnbull Glasgow G1 5PR

To Accompany Case reference: FTS/HPC/RP/18/0532

Date of Inspection: 20 June 2018

Chairperson



1 Entrance to property off Turnbull Street



2 The entrance to the flat



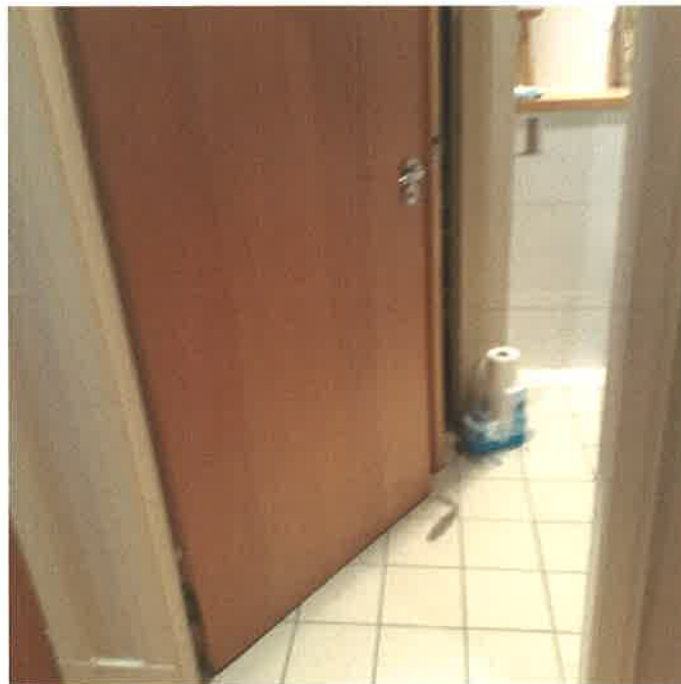
3 The securely fixed handrail



4 The new extract fan in the bathroom



5 The repaired twin socket outlet in the bedroom



6 The bathroom door in working order