

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 Ref: FTS/HPC/RP/22/1858

Title Number: SEL4760

7 Glenfield Terrace, Galashiels TD1 2AS (“the property”)

The Parties:-

Mr Ian Gilbert, 21 Coopersknowe Crescent, Galashiels TD1 2DS (“the landlord”)

Tribunal Members:

Richard Mill (Legal Member) and Greig Adams (Ordinary Member)

Decision

The Property meets the Repairing Standard. The Landlord has complied with the duty imposed by section 14 of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order unnecessary.

Introduction

1. The Tribunal is asked to determine whether the landlord has complied with the ‘repairing standard’ duty imposed by Section 14 of the Housing (Scotland) Act 2006 (“the Act”) in relation to the property at 7 Glenfield Terrace, Galashiels TD1 2AS.
2. The application was brought by the tenant who complained about the absence of safety checks being undertaken in respect of the property in the absence of a Gas Safety Certificate and an Electrical Installation Condition Report. It was also complained that there were no smoke detectors, heat detector or carbon monoxide detector.
3. By way of Direction dated 5 August 2022 the Tribunal requested the landlord to produce:-
 1. An Electrical Installation Condition Report (EICR) from a SELECT, NICEIC or NAPIT accredited electrician in respect of

the property, containing no Category C1 or C2 items of disrepair, which also refers to the provision for smoke and heat detection in accordance with Scottish Government guidance.

2. A copy of the current Gas Safety Certificate from a registered Gas Safe engineer, for the property which refers to the provision for carbon monoxide detection.”

The said documentation required to be lodged with the Chamber no later than 5.00 pm on 31 August 2022.

4. Following the making of the application the tenant vacated the property. The Tribunal noted that the tenancy had been terminated and under schedule 2, paragraph 7 of the 2006 Act considered whether the application should be determined or abandoned. Given the serious health and safety issues arising the Tribunal decided to continue to determine the application.
5. By way of correspondence dated 11 August 2022 the landlord stated that the boiler for the property is situated on the outside of the building in a concrete outhouse and that there are no gas connections in the house. He submitted that, in the circumstances, the property does not require a carbon monoxide detector. He produced a Gas Safety Certificate issued on 23 June 2022 which confirms that the gas boiler for the property is safe. He also produced an EICR dated 23 June 2022 vouching that the electrical condition of the property is satisfactory with no C1 or C2 items noted. It was referenced under a C3 issue that the consumer unit is not made of a non-combustible enclosure. This is an advisory matter only.
6. By way of further correspondence dated 31 August 2022, the landlord advised that he had deregistered as a landlord and that his registration had been removed from the Landlord Register.

Inspection

7. The Tribunal inspected the property at 10.00 am on 8 September 2022. The landlord was present and allowed access. The property is not currently occupied. There is no tenancy in operation.
8. Given the extent of the documentary evidence produced in advance of the inspection by the landlord the only matter which required to be the subject of further investigation at the time of inspection was the existence of any smoke alarms, heat alarm and carbon monoxide alarm.
9. The property was noted to have wireless interlinked smoke alarms. There is a heat alarm in the kitchen. There was no carbon monoxide alarm.

10. The property has gas central heating. The gas boiler servicing the radiators in the property is situated in a cupboard which occupies the space under the internal stairs of the property but which is only accessed from outside the property. The boiler cupboard forms part of the property. The stairs under which the boiler is situated are wooden and are not airtight.

The Hearing

11. The Tribunal convened a hearing by teleconference at 2.00 pm on 8 September 2022. The landlord participated.
12. A discussion took place with the landlord in relation to the Tribunal's concerns regarding the lack of carbon monoxide within the property. It is reasonably foreseeable that in the event of the gas boiler leaking carbon monoxide that this would seep through the wooden stairs into the habitable part of the property.
13. Carbon monoxide alarms are required in all homes if the property has a carbon fuelled appliance, such as a boiler. The property does and a carbon monoxide detector is required. The fact that there are no combustible gas appliances (such as a cooker or gas fire) is irrelevant.
14. The Tribunal made it clear that the issue was capable of easy rectification and that there was no desire to make a Repairing Standard Enforcement Order (RSEO) in respect of the property. In all the circumstances, the landlord undertook to produce an invoice in respect of the purchase of a carbon monoxide alarm and to also supply a photograph of the alarm in situ showing that this had been installed. The Tribunal subsequently issued a corresponding Direction to this effect.

Reasons for Decision

15. The Tribunal determined the application having regard to the original bundle of papers, the submissions made by parties, the Tribunal's inspection on 8 September 2022 and the documentary evidence provided by the landlord.
16. The Tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the reference.
17. The earlier referenced documentary evidence satisfied the Tribunal of the condition of the electrical installations in the property and the safe condition of the gas boiler. The Tribunal's inspection on 8 September 2022 revealed the existence of adequate detectors for smoke and heat as required by regulations. The only one outstanding issue was the

absence of a carbon monoxide detector. This latter issue was swiftly resolved by the landlord, in accordance with the Direction of the Tribunal issued on 8 September 2022. In compliance the landlord provided a photograph of an invoice dated 8 September 2022 in respect of the purchase of a carbon monoxide alarm together with a photograph of the alarm installed in the property.

18. The tribunal in the above circumstances was satisfied that the issues raised in the application had all been fully investigated and that there were no health and safety concerns regarding the electrical or gas installations in the property. In these circumstances, the property meets the repairing standard and there was no need to make an RSEO.

Right of 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.

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.

Legal Member :

Date : 14 September 2022