

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) ('the Act')

Chamber Ref: FTS/HPC/RP/17/0446

Property at 32A Mossvale Street, Paisley PA3 2LR

Land Register Title Number REN 108539

('The Property')

The Parties:

Miss Victoria Johnstone, Tenant of 32A Mossvale Street, Paisley

('the Tenant')

Mr Steven Gilmour, 117 Marchfield Avenue, Paisley

('the Landlord')

The Tribunal Members:

Joseph C Hughes [Legal Member]

Debbie Scott [Ordinary Member/ Surveyor]

DECISION:

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14(1) (b) in relation to the Property, determined the Landlord has now complied with the duty imposed by Section 14(1) (b) of the Act.

Background:

1. By Application the Tenant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) 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'). The Application was received on 28th November 2017.

2. The Application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the Property meets the Repairing Standard. The Tenant brought forward the following breaches:

(i) No electrical safety check carried out;

(ii) Broken heater; and

(iii) Internal drainage problem.

3. The Tenant considered that the Landlord is in breach of his duty under the Housing (Scotland) Act 2006 in relation to the Repairing Standard and in particular the Landlord has failed to ensure that:

(c) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order; and

(d) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.

4. By Minute dated 1st December 2017 the Convener of the First-tier Tribunal for Scotland (Housing and Property Chamber), with delegated powers under Section 96 of the Housing (Scotland) Act and Section 21(8A) of the Act, made a Decision to Refer the Application to a tribunal in terms of Section 23(1) of the Housing (Scotland) Act 2006.

5. On 11th January 2018 the Tribunal wrote to Parties to advise that the Tribunal intended to inspect the property on 29th January 2018 at 1am with a Hearing at 11.30am within Wellington House, Glasgow.

6. The Tenant was represented by Fiona Brown, Shelter Scotland (Foundations First). Ms Brown emailed the Tribunal on 23rd January 2018 to advise that the Landlord has carried out some of the repairs. She stated that the storage heaters in the living room and hallway had been replaced. She further confirmed that the drainage problem had been addressed. Ms Brown clarified in her email that the only issue outstanding was the electrical safety check.

The Inspection:

7. The inspection and hearing arranged for 29th January 2018 at 10am and 11.30am respectively proceeded as planned. The tribunal attended at the property for the purposes of inspection of the property. The Tenant and Landlord were present and provided access to the property. The

Landlord's father was also in attendance. The Tenant and Landlord cooperated throughout the Inspection.

8. At the inspection the tribunal noted the following points:

- (a) The property comprises 3 bedrooms, hall, lounge, kitchen, toilet/shower room over two levels. The Landlord indicated that the property was originally a two bedroom property which he thereafter converted. There is a small cupboard within the hall which houses the electrical consumer unit;
- (b) The Landlord fitted two new radiators in the hall and living room just before Christmas 2017. The Tenant also had two small fires within the living room;
- (c) The drainage problem in the upstairs toilet is now fixed;
- (d) The Landlord was registered as a Landlord with Renfrewshire Council on 12th January 2018;
- (e) There are two smoke detectors fitted in the living room and upper hall. Both were operational;
- (f) The Tenant resides within the property with her 7 year old son. She had a numbers of windows open during the Inspection. She stated that she liked to air the property;
- (g) The Landlord provided the Tenant with a fridge freezer, cooker, TV and sky box;
- (h) There is no heating within the upper level of the property; and
- (i) At the Inspection the Landlord provided the Tribunal with an Electrical Installation Condition Report (EICR) dated 23rd January 2018. The Tenant was briefly shown the Report. She stated that she would not be attending the Hearing. She stated that her Representative would be there for her. The Tenant was advised that her Representative would be given a copy of the Report at the Hearing. No PAT Report was exhibited.

A Schedule of Photographs taken during the Inspection by the Ordinary Member is attached to this Statement of Decision and executed as relative hereto.

The Hearing:

9. The Hearing took place at Wellington House. Ms Brown attended as the Tenant's Representative. The Landlord attended the Hearing accompanied by his mother. The tribunal had before it the Application and other documentation. The tribunal also had the Land Certificate REN 108539 relative to the property which is registered in the name of the Steven Gilmour.

- (a) It is agreed by both parties that the storage heaters in the living room and hallway have been replaced.
- (b) It is agreed by both parties that the drainage problem has been addressed.
- (c) The Landlord accepted there is no heating in the upper level of the property. The Landlord stated that when he resided there in the past he used three halogen heaters. He stated that he removed

these when he vacated the property. The Tenant did not make any issue of the lack of heating in the upper level.

(d) The Landlord accepted there was no current PAT documentation. He stated that he would contact the electricians who provided him with the EICR and order that the necessary PAT documentation be obtained and thereafter lodged with the Tribunal.

10. The issue to be determined is whether the Repairing Standard has been met in light of the inspection and the submissions by the Tenant and Landlord.

11. Following upon the Hearing the Tribunal wrote to the Landlord on 15th February 2018 requesting that he submit a copy of the PAT Report within 7 days. The tribunal received the PATS Report on 20th February 2018. The PAT testing appears to have been carried out by the same company that undertook the EICR. The date on the EICR is 21st January 2018 and the PAT Test is dated 2nd February 2018, which was after the Inspection explaining why there were no labels noted at the Inspection. Star Electrics is registered with SELECT and it therefore appears we now have a valid EICR and PAT Test.

Findings of Fact:

12. The tribunal finds the following facts to be established:

- (i) The Landlord is the registered owner of the property;
- (ii) The property comprises of three bedrooms, a toilet/shower room, kitchen, living room and hallway;
- (iii) Two operational smoke detectors are installed;;
- (iv) There is no Gas within the property;
- (v) Two new radiators have recently been fitted within the living room and hallway;
- (vi) There is no longer an issue with the plumbing within the upper toilet/shower room; and
- (vii) The Landlord produced an EICR dated 23rd January 2018 during the Inspection of the property. No PAT Report was lodged. No appropriate labels were noted within the property. The Landlord stated that he would instruct the necessary work to be carried out and lodge the PAT Test forthwith. The PAT Test was lodged on 20th February 2018.

Decision:

13. The tribunal determined that the Landlord has now complied with the duty imposed by Section 14(1)(b) of the Act. All matters properly raised by the Tenant have now been addressed to the satisfaction of the Tribunal.

14. The tribunal therefore did not make a Repairing Standard Enforcement Order (RSEO)

15. The decision of the Tribunal is unanimous.

Reasons for Decision:

16. The Tribunal considers that the Landlord has now complied with his duty under Section 14(1)(b) of the Act and has complied with the Repairing Standard in terms of Section 13 (1) (c) of that Act.

Right of Appeal:

17. A Landlord, Tenant or Third Party application aggrieved by the Decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the Decision was sent to them.

Effect of Section 63:

18. Where such an Appeal is made, the effect of the Decision and the Order is suspended until the Appeal is abandoned or finally determined.

Where the Appeal is abandoned or finally determined by confirming the Decision, the Decision and the Order will be treated as having effect from the day on which the Appeal is abandoned or so determined.

J Hughes

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Joseph Christopher Hughes

Legal Member and Chairperson

Housing and Property Chamber

Dated 27th February 2018

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Rear elevation



Electric heater located within hallway – operational at inspection

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Consumer unit within under stair cupboard



Smoke and heat Detector in kitchen

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Electric radiator located within living room – operational at date of inspection



Kitchen

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Smoke Detector in living room and another in the upstairs hallway.