

Housing and Property Chamber First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Section 24 (2)

House at 18b Glenacre Road, Cumbernauld, G67 2NZ and registered in the Land Register of Scotland under Title Number DMB31021 (“the Property”)

Case Reference FTS/HPC/RP/22/3990

Mr Ethan Waddington, formerly 18b Glenacre Road, Cumbernauld, G67 2NZ (“The Former Tenant”)

Sunshine Housing Ltd, (“The Landlord”)

McTurk and Muir Lettings Ltd, (“the Landlord’s Representative”)

Tribunal Members – M McAllister (Legal Member) and M Links (Ordinary Member)

Background

1. This is an application by the Former Tenant. It is under Section 22 (1) of the Housing (Scotland) Act 2006 (“the Act.”). The application is dated 30th October 2022 and was accepted for determination by the Tribunal on 4th November 2022.
2. The tribunal received confirmation from the Landlord’s Representative that the tenancy of the house had been terminated.
3. The tribunal continued to determine the case and issued a Minute of Continuation in terms of Schedule 2 Paragraph 7(3) (b) (i) of the Act on 12th January 2023.
4. The application stated that there was no hot water in the Property and that the hob extractor fan was not functioning.

Inspection

5. Mr McAllister, solicitor, legal member and Mr Links, chartered surveyor, ordinary member inspected the Property at 10 am on 7th February 2023. A copy of a schedule of photographs is attached to this Decision. The Property was

unoccupied and Ms Alison Spence, an employee of the Landlord's Representative was present and allowed access.

Observations at the Inspection

6. The property comprises a self-contained, first floor, purpose built flat within a four storey building of similar properties. The upper flats are accessed via a shared common stairwell. It is estimated that the property is in the region of sixty years in age.
7. Heating of the hot water is by way of an immersion heater. The hot water supply in the kitchen and bathroom was tested and was found to be effective.
8. The electric hob extractor fan was operated and was found to be functioning satisfactorily.
9. It was noted that the hot water pressure in the bathroom was satisfactory but that the flow from the kitchen tap was poor.
10. It was noted that smoke detectors were installed in the living room and hallway and that a heat detector was installed in the kitchen. They were tested and all were found to be functioning but appeared not to be interlinked.

The Hearing

11. A Hearing was held by audio conference at 2 pm on 7th February 2023.
12. Mr Links outlined the findings from the inspection. He commented on the hob extractor fan and the supply of hot water.
13. Ms Spence said that, subsequent to the application being submitted, the hob extractor fan had been repaired and a new immersion element had been installed in the hot water tank.
14. Mr Links explained that, whilst not part of the application, there were concerns because the heat detector and smoke detectors appeared not to be interlinked.
15. Ms Spence said that, between the Inspection and Hearing taking place, she had arranged for an electrician to attend the Property and she had confirmation from him that the detectors were tested and were found to be operating in an interlinked manner. She said that the electrician had advised that, when being tested, the particular detectors required the buttons to be pressed for at least sixteen seconds.
16. Mr Links explained that, whilst not necessarily a repairing standard matter, an incoming tenant may not be satisfied with the hot water pressure in the kitchen.
17. Ms Spence said that, between the Inspection and Hearing taking place, she had arranged for a plumber to attend the Property and she had confirmation from him

that the issue had been caused by a flexible hot water pipe under the sink having a kink in it. She said that this had now been fixed.

12. Findings

The tribunal considered the application and the relevant elements of the repairing standard as set out in the 2006 Act. The tribunal found that, in relation to the application, the House meets the repairing standard.

13. At the Inspection, the tribunal noted two issues not included in the application relating to the smoke and heat detectors and the pressure in the hot water tap in the kitchen. It noted that Ms Spence had arranged for an electrician and plumber to attend the Property to check these matters and it was reassured that there were no ongoing issues. The members of the tribunal commended Ms Spence on her diligence in these matters.

13. Reasons

The tribunal had regard to what had been observed at the inspection.

14. Determination

The tribunal determined to make no repairing standard enforcement order because it found that, in relation to the application, the House met the repairing standard.

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.

M J. McAllister,
Legal member
7th February 2023

