

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)

(Hereinafter referred to as “the tribunal”)

Under Section 24(1) of the Housing (Scotland) Act 2006 (“the Act”)

Case Reference Number: FTS/HPC/RP/21/3028

Re:16 Bargany Court, Glasgow, G53 7JE (“ the house”)

Land Register Title No: GLA156697

The Parties:

Ms Amie O'Donnell, formerly residing at the house (“the former tenant”)

Mr Irfan Nasim, 36 Newark Drive, Glasgow G41 4PZ (“the respondent”)

Tribunal Members – Sarah O'Neill (Legal Member) and Nick Allan (Ordinary (Surveyor) Member)

Decision

The tribunal dismisses the former tenant’s application as the house has now been sold, and the respondent is therefore no longer a landlord in relation to the house. The tribunal’s decision is unanimous.

Background

1. By application received from her solicitor on 7 December 2021, the former tenant applied to the tribunal for a determination that the respondent as landlord had failed to comply with his duties under Section 14(1) of the Act.
2. In her application, the former tenant stated that she believed the respondent had failed to comply with his duty as landlord to ensure that the house met the repairing standard as set out in section 13(1) (d) of the Act. Her application stated that the respondent had failed to ensure that:

- the house is wind and watertight and in all other respects reasonably fit for human habitation
 - 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
 - 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
 - the house meets the tolerable standard
3. The former tenant stated in her application that the following work required to be carried out at the house:
1. Investigate source of dampness and mould growth and resolve same.
 2. Investigate bathroom to ensure no further leaks.
 3. Repair the hole in the living room ceiling.
 4. Carry out an up to date gas inspection and ensure that the boiler meets current regulations and is in a safe and working order.
4. On 8 December 2021, the tribunal administration received an email from the former tenant's solicitor seeking to withdraw the application. Subsequently the tribunal was provided with a copy of a joint minute signed by representatives of the former tenant and the respondent. This was to resolve the present application and further eviction and civil proceedings applications involving the parties. The minute stated that the present application would be withdrawn.
5. The tribunal had asked the former tenant's solicitor to provide a copy of the current gas safety certificate. On 25 January 2022, the former tenant's solicitor emailed the tribunal administration and said that the respondent had been asked to provide this. The solicitor confirmed that the former tenant would be leaving the house by the end of January 2022 and that she would have no further role in any proceedings before the tribunal.
6. On 11 February 2022, a Convener with delegated powers of the Chamber President issued a minute of continuation, confirming the tribunal's intention to continue with the application, on the basis that it was significant that one of the matters raised in the application was the provision of a current gas safety certificate and that its absence raised health and safety concerns in respect of any future tenants.
7. On the same date, the Convener with delegated powers of the Chamber President issued a notice of acceptance of the application. An inspection was arranged for 21 April 2022 and a hearing was arranged for 28 April 2022. The tribunal issued a direction to the respondent on 30 March 2022, requiring him

to produce an up to date gas safety certificate in respect of the house by 21 April 2022. No response was received to the direction.

8. On 6 April 2022, an email was received from the respondent stating that the house had now been renovated and sold. The tribunal therefore cancelled the scheduled inspection and hearing, to allow time to seek further evidence from the respondent about this. The tribunal issued a second direction to the respondent on 26 April 2022, notifying him that it intended to continue with the application until it was satisfied that the house had been sold and that the repairs had been carried out. The tribunal noted in the direction that as at 12 April 2022, the respondent was still the registered owner of the house as shown on the land certificate.
9. The second direction therefore required the respondent to provide by 19 May 2022 written evidence demonstrating that: 1) the property had been sold and confirming the date on which the property was sold and 2) the repairs issues raised in the former tenant's application had been addressed.
10. No response was received from the respondent to the second direction. On 1 June 2022, the tribunal administration again wrote to the respondent, noting that no response had been received from him, and asking him to provide the information required by the direction by 10 June 2022. No response was received from the respondent to the direction.
11. The tribunal obtained an updated title sheet from the Registers of Scotland on 2 July 2022. This showed that the landlord was still the registered owner of the house as at that date, and that there was no evidence of any pending sale of the house. As at that date, the landlord register also showed that the house was still on the register, and the landlord remained the registered landlord. Glasgow City Council landlord registration had confirmed to the tribunal on 15 June 2022 that the landlord registration account for the house was still active.
12. The tribunal therefore decided to arrange a further inspection and hearing in relation to the application. Before doing so, it decided to obtain a further updated title sheet from the Land Register on 20 July 2022. This search showed that the house had in fact been sold to new owners, with a date of entry of 6 May 2022 and a registration date of 7 June 2022.
13. The tribunal is therefore satisfied that the house has been sold, and that the respondent is no longer a landlord in relation to the house. The tribunal observes that it would have been helpful to have received a response from the respondent to its directions. It is a criminal offence to fail to provide evidence to the tribunal when required to do so. Had the respondent provided a response to the directions, this may also have allowed the tribunal to dismiss the application at an earlier stage. However, given that it is now clear that the

respondent is no longer the landlord in respect of the house, the tribunal determines that the application should be dismissed.

Summary of decision

The tribunal dismisses the former tenant's application as the house has now been sold, and the respondent is therefore no longer a landlord in relation to the house.

Rights 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.

Signe

Date 21 July 2022

Sarah O'Neill, Chairperson