

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision: Housing (Scotland) Act 2006 Section 24

Chamber Ref: FTS/HPCC/RT/22/2222

Property Address: 15 Caledonian Court, Falkirk FK2 7FL (“the property”)

The Parties: Kate Smith of the Falkirk Council Private Sector Team (“Third Party Applicant”)

Dr Samantha Bandularatne 71 Kingfisher Place,
Dunfermline KY11 8JJ (“Landlord”)

The First –tier Tribunal for Scotland (Housing and
Property Chamber (“the tribunal”))

Decision

The Tribunal, having made such enquiries as is fit for the purpose of determining whether the respondent has complied with the duties imposed upon them by Section 14(1)(b) of the Housing (Scotland) Act 2006 hereinafter referred to as “The Act”) in relation to the property concerned, and taking account of the evidence presented in the written and oral representations, and following upon the inspection, determines that the landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006..

Background

1. An application was received by the tribunal on 6th July 2022. Accompanying that application was a copy letter dated 30th May 2022 addressed to the Landlord setting out certain works that required to be undertaken to the property. A copy of photographs were also attached. The tribunal received the application on 8th July 2022. Certain further information was sought. On 4th August 2022 the tribunal accepted the application for determination.

The Inspection

An inspection was due to be held on 10th October 2022. No inspection took place on that date. A further inspection was set down for 18th January, that inspection was cancelled and a further inspection date set for 6th February 2023.

The inspection took place on 6th February 2023.

Tribunal Members

Mr. Mark Thorley (Legal)
Mrs. Sara Hesp (Ordinary)

The Inspection

The tribunal inspected the property on Monday 6th February 2023 at 10am. The weather was dry and sunny.

1. Electrical Installation Certificate Reoport (EICR)

This had been provided by the Landlord in advance of the hearing.

2. Gas Safety Certificate .

This had also been provided by the Landlord in advance.

3. Smoke Alarm Certificate,

This was (subsequent to the hearing) provided by the Landlord.

4. Smoke and Heat Detection.

Smoke and Heat detectors were provided in the property. Although these detectors were functioning they were not interlinked.

5. Bathroom Window

This has been described as being not secure and dangerous. On inspection this has been established as having been repaired.

6. Rpair or Replace Back Bedroom Window.

Again the inspection identified that this had been repaired.

7. Patio Doors to the Rear Living Area

The inspection showed that the lock was functioning.

8. Door Handle

In small bedroom on upper floor. Again this had been identified as having been repaired.

The Hearing the following persons attended:-

1. Dr. Sam Bandulratne

The Ordinary Member narrated the findings on inspection. Thereafter parties were provided with an opportunity to provide their comment in relation to the findings.

The Landlord accepted entirely the findings of the inspection insofar as all the works had been undertaken.

It was however noted that the smoke alarm system was not interlinked. The Landlord's position was that he had instructed tradesman to do this work. However he acknowledged that there was no interlinking.

Findings in Fact

The tribunal made the following findings in fact:-

1. The property is currently untenanted.
2. The property is a semi detached property on two floors.
3. The property consists of living room, dining room, kitchen, and on the upper floor two bedrooms and bathroom.
4. There is a carbon monoxide detector in the kitchen. It was not suitably placed but can be.
5. The works as sought in terms of the bathroom window, back bedroom window, patio doors and door handle –small front bedroom have all been undertaken.
6. Relevant Certificates have been issued.
7. The Alarms are not interlinked.

Reasons for decision

In considering the decision the tribunal carried out an internal and external examination of the building. In addition, the tribunal considered the written documentation from the Landlord.

The tribunal acknowledged that Certificates have been provided by the Landlord. In addition there was work that clearly had been undertaken to the property. The property was undergoing further refurbishment in respect of a water leak that had taken place.

However the issue that was identified was that the smoke alarms were not interlinked. They were all tested. It was confirmed they were working but they were not interlinked. Clearly they require to be, particularly if the Landlord is going to rent the property. This can be done either by way of mains unit (and if done this was a certificate from an appropriately qualified electrician should be obtained) or by battery unit (and if so evidence of this needs to be provided)

Decision of Tribunal

Considering the terms of Section 13(3) of the Act, determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act

The tribunal proceeded to make a repairing enforcement order as required by Section 24(2) of the Act. The decision of the tribunal was unanimous.

Right of Appeal

A Landlord or tenant or third party applicant aggrieved by the decision of the tribunal may apply 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 from the date the decision was sent to them. When such an appeal is made, the effect of the decision will be treated as having effect from the date on which the appeal is abandoned or so determined.

Legal Member

Date 9 March 2023