



Determination by First-tier Tribunal for Scotland (Housing and Property Chamber) statement of decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 24 (1) of the Housing (Scotland) Act 2006.

Chamber Ref: FTS/HPC/RP/23/0384

Re: Property at 8 Cairnview Kirkintilloch G66 3LP (“the Property”)

Parties:

Mrs Sylvia Morrison Stewart residing at 8 Cairnview Kirkintilloch G66 3LP (“the Applicant”) represented by Raymond Heath, Housing Adviser, East Dunbartonshire Citizens Advice Bureau, 11 Alexandra Street Kirkintilloch G66 1HB.

Mr Nicolas McBride, residing at 60 Victoria Road, Kirkintilloch G66 5AP (“the Respondent”)

Tribunal Members:

**Mr J Bauld (Legal Member)
Mr G Adams (Ordinary Member)**

Background

1. By application dated 7 February 2023, the Applicant via her representative made an application to the First-tier Tribunal (Housing and Property Chamber) indicating that they believed that the Respondent as landlord was failing to comply with the duties imposed upon him by section 14 (1) (b) of the Housing (Scotland) Act 2006 (hereinafter referred to as “the 2006 Act”). They complained that the property did not meet the repairing standard set out in the 2006 Act.

2. On 6 March 2023 a legal member of the tribunal exercising the delegated powers of the Chamber president determined that the application could be referred to the tribunal for determination.
3. An inspection and hearing were subsequently arranged to take place on 19 May 2023 and appropriate intimation of the time and date was sent to all parties.
4. In the application, the Applicant claimed the property failed to meet the Repairing Standard in respect that the windows had gaps and were draughty and thus the property was not wind and watertight, that window handles were broken and the front door lock was broken. The applicant indicated the windows were single glazed units.

Inspection & Hearing

5. The Tribunal members attended at the property on the morning of 19 May 2023. The applicant and her representative, Mr Raymond Heath, were present within the property and access was allowed to the Tribunal members.
6. The property was an upper floor flat within a four in a block building. The building comprises of cavity wall construction incorporating an advanced bay to the gable with a timber construction roof clad in concrete tiles with fenestration by way of PVC double glazed windows predominantly of “tilt and turn” design. Internally the property comprised a hall, living room, four bedrooms, kitchen and bathroom.
7. During the inspection the Tribunal members noted that all windows had been recently replaced with new double glazed units. The front door had similarly been replaced with a new double glazed door. There were no broken window handles. The tenant was concerned that the windows did not all have child safety locks and that she was not able to install curtain rails
8. After the inspection, the Tribunal members proceeded to the hearing venue in Glasgow and the hearing commenced shortly after 12.00. The landlord, Mr

McBride, attended the hearing as did Mr Heath. The applicant was not personally present at the hearing.

9. During the course of the hearing, the Tribunal indicated to the parties the findings they had drawn from the inspection and indicated to them that in the view of the Tribunal, the property did not fall short of the Repairing Standard as alleged in the application. The issues relating to child safety locks and curtain rails were not matters which fell within the ambit of the repairing standard.
10. Mr Heath agreed with the tribunal that the property in its current state met the repairing standard and that no repairing standard enforcement order could be made. He offered to withdraw the application.
11. Mr McBride advised the Tribunal that it was his position that the flat had never fallen short of the Repairing Standard. He stated that he had carried out numerous repairs to the property at various points during the course of the tenancy. He believed the application was spurious. The Tribunal was not able to take a view on that assertion by the landlord. The landlord wished the tribunal to issue a decision reflecting the condition of the property as seen and did not wish the application to be treated as withdrawn. He made other comments which reflected matters contained in a written submission which he had lodged prior to the hearing. The matters raised in these comments, while clearly of concern to Mr McBride, were not relevant to the issue at hand for the tribunal.

Decision

12. The Tribunal considered the evidence which had been obtained at both the inspection and the hearing. The Tribunal were satisfied that the property met the Repairing Standard on the date of the inspection and hearing and that any of the alleged faults contained within the application were no longer present, if they had ever been present. A schedule of photographs prepared by the ordinary member and showing the property and is attached to this decision

13. Accordingly the Tribunal determined that they would make no order in terms of section 24 of the 2006 Act and that the application should be dismissed.

Right of Appeal

14. In terms of Section 46 of the Tribunal (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.

22 May 2023

Legal Member/Chair

Date