

# Housing and Property Chamber

## First-tier Tribunal for Scotland

---



**First-tier tribunal for Scotland (Housing and Property Chamber)**

**Note of Case Management Discussion under rule 17**

**Reference number: FTS/HPC/RP/20/1221**

**Re: Property at 12D, Springhill Road, Port Glasgow, PA14 5QP (“the Property”)**

**The Parties:**

**Ms Jennifer Weir, care of Neill Clerk Estate Agent, 60, Blackhall Street, Greenock PA15 1UY (“the Landlord”) per her agents, the said Neill Clerk Estate Agent (“the Landlord’s Agents”)**

**Tribunal Members:**

Karen Moore (Chairman)

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Application be dismissed.**

**Background**

1. By application comprising an application form dated 27 May 2020, 2018 (“the Application”), the then tenant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on them by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1) (a), 13(1) (c), 13(1) (d), and 13(1) (h) of the Act.
2. On 3 June 2020, a legal member of the Chamber with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 14 January 2021 at

10.00 by telephone conference call. The CMD was intimated to both Parties.

3. By email dated 23 December 2020, the then tenant advised the Tribunal that he had vacated the Property. The Tribunal continued the Application of its own accord in terms of Schedule 2 to the Act and issued a Direction in terms of Rule 16 of the Rules requiring the Landlord to submit documentation in respect of the condition of the Property. The Landlord's Agents submitted a current Gas Safety Certificate and evidence of works carried out at the Property.

### **Case Management Discussion**

4. The CMD took place on 14 January 2021 at 10.00 by telephone conference call. The Landlord was present and was represented by Ms. Hall and Mr Reid of the Landlord's Agents.
5. The Tribunal explained that under normal circumstances, the Tribunal would arrange for the Ordinary Member, an RCIS surveyor, to carry out an inspection, to advise on the condition of the Property. Unfortunately, this has not been possible, due to the continuing effects of the COVID-19 pandemic. In the circumstances, the CMD was arranged, in order to discuss further procedure in the case.
6. Ms. Hall explained that the water ingress at the Property had been caused by a leaking washing machine in the flat above the Property and that the damage caused to the Property had been repaired. She confirmed that a current compliant Electrical Installation Condition Report is in place for the Property. Mr. Reid confirmed that there are compliant smoke and heat detectors in the Property.

### **Findings of the Tribunal.**

7. From the Application and the CMD, the Tribunal found the following facts to be established: -
  - i) There was a tenancy agreement between the then tenant and the Landlord;
  - ii) The then tenant complained of failures to comply with the Repairing Standard in respect of water ingress and a defective gas fire;
  - iii) The Landlord's Agent on behalf of the Landlord produced a Gas Safety Certificate confirming the gas fire is compliant and produced documentary evidence that the water ingress damage has been repaired.

**Decision of the Tribunal and Reasons for the Decision.**

8. Having found sufficient evidence that the matters complained of in the Application had been remedied to a reasonable standard, the Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussion .....including making a decision” and so dismissed the Application.

**Right of Appeal**

**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.**

**K Moore**

Signed

Date 14 January 2021

Chairman