

# Housing and Property Chamber First-tier Tribunal for Scotland

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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)**

**Chamber Ref: FTS/HPC/RP/19/3315**

**21/4 Stewart Terrace, Edinburgh EH11 1UP  
("The Property")**

**The Parties:-**

**Miss Jessica Cadd, 21/4 Stewart Terrace, Edinburgh EH11 1UP  
("the Tenant")**

**Mr Nicholas Claydon, c/o Pure Property Management Ltd, 141 Gilmore  
Place, Edinburgh EH3 9PW  
("the Landlord")**

**Tribunal Members**

**Graham Harding (Legal Member)  
Robert Buchan (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by both the Landlord's representative and the Tenant at the hearing, determined that the Landlords had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

**Background**

- 1. By application dated 16 October 2019 the Tenant applied to the Housing and Property Chamber for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").**
- 2. The application by the Third Party stated that the Tenant considered that the Landlord had failed to comply with their duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-**

- (a) 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.
- (b) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
- (c) The house does meet the tolerable standard.

Specifically the Third Party complained that:-

The gas boiler had failed a gas safety check and was a danger;

There was no gas safety certificate;

There were issues with mould and mildew.

3. By Notice of Acceptance dated 5 November 2019 a legal member of the Housing and Property Chamber with delegated powers intimated a decision to refer the application under Section 23 (1) of the Act to a Tribunal.
4. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord, the Third Party and the Tenants.
5. Following service of the Notice of Referral on the Tenant by letter dated 15 November 2019 the Tenant sought to withdraw the application as the Landlord was said to have complied with the Repairing Standard. However, as there was a safety concern the Tribunal determined to continue the application by Minute of Continuation issued on 5 December 2019. The Landlord's representatives provided the Tribunal with written representations dated 30 December 2019.
6. The Tribunal inspected the Property on the morning of 13 January 2020. The Tenant and Mr Ashley Buren on behalf of the Landlord were present during the inspection. The Ordinary Member of the Tribunal took photographs of the property which are attached as a schedule to this decision.
7. Following the inspection of the Property the Tribunal held a hearing at Riverside House, 502 Gorgie Road, Edinburgh and heard from both the Tenant and Mr Buren. The Landlord did not attend.
8. For the Landlord, Mr Buren confirmed that the gas boiler had been replaced. The mould in the bedroom had been treated in November 2019 and repainted. The air circulation system had been cleaned and

was operating much better. A current gas safety certificate had been provided to the Tribunal.

9. For her part the Tenant confirmed that the boiler had been replaced and the bedroom had been treated for mould and repainted. There had been no re-occurrence of mould to date.
10. The Tribunal referred Mr Buren to the staining on the rear wall of the property. It did not appear that this issue was likely to improve and there was a risk that it could in the future lead to rot in the wooden lintel.
11. Mr Buren explained that he had been contacting others in the block since 2017 but had been unable to obtain consent from a majority of owners to agree to repairs being carried out. He had obtained a quote of £2800.00 for the repairs. He indicated he would be happy to obtain other quotes. He had contacted the local authority about shared repairs.
12. The Tribunal pointed out that the property did not have a hard-wired heat detector in the kitchen and smoke detector in the living room and Mr Buren confirmed he would attend to this forthwith.

### **Summary of the issues**

13. The issues to be determined are whether the installations in the property 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. Whether the fixtures, fittings and appliances supplied by the Landlord under the tenancy are in a reasonable state of repair and in proper working order and does the property meet the Tolerable Standard?

### **Findings of fact**

14. The Tenancy is a Short Assured Tenancy.
15. The Landlord has replaced the gas boiler and it is in proper working order.
16. The bedroom has been treated with fungicide and redecorated.
17. There is a current Gas Safety Certificate for the property.
18. The moisture readings in the external walls of the property are at normal levels.
19. There is significant staining to the external rear wall of the property.
20. There is no hard-wired heat detector in the kitchen or smoke detector in the living room.

### **Reasons for the decision**

21. The Landlord has done much to address the issues that were affecting the property by replacing the gas boiler and obtaining a gas safety certificate and treating the bedroom with a fungicide and improving the air circulation in the property.
22. At the time of the inspection the moisture readings in the external walls of the property were within normal parameters and there were no signs of mould recurring following the bedroom being redecorated.
23. The Tribunal was concerned that the property did not have hard wired heat and smoke detectors in the kitchen and living room but as this did not form part of the application could only recommend that these should be provided as soon as possible. The Tribunal noted that it was Mr Buren's intention to have this matter attended to immediately.
24. It did seem to the Tribunal that there was an ongoing issue with water penetration at the rear of the property which although not an immediate problem would in the Tribunal's view be likely to cause a problem in the future if it was not remedied.
25. Taking everything into account the Tribunal was satisfied that the Landlord had taken adequate steps to address the issues complained of in the application.

### **Decision**

26. The Tribunal accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
27. The decision of the Tribunal was unanimous.

### **Right of Appeal**

28. A landlord, tenant or third party applicant aggrieved by the decision of the Tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

**Effect of section 63**

29. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

**G Harding**

Signed

.....Chairperson

Date

6 February 2020 *U*

Photographs taken during the inspection of  
21/4 Stewart Terrace, Edinburgh, EH11 1UP



Front



New boiler

Photographs taken during the inspection of  
21/4 Stewart Terrace, Edinburgh, EH11 1UP



Bedroom



Damp meter reading

Photographs taken during the inspection of  
21/4 Stewart Terrace, Edinburgh, EH11 1UP



Back wall