

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



**REPAIRING STANDARD ENFORCEMENT ORDER**

**Chamber Ref: FTS/HPC/RP/22/3034**

**Re: Property at 63 Stewart Road, Falkirk, FK2 7AQ registered in the Registers of Scotland under Title Number STG73635 (“the Property”)**

**The Parties:**

**Mr. Duncan McPhee residing at the Property (“the Tenant”)**

**And**

**Mrs. Mee Hong Tiang (“the Landlord”) having an address sometime at 90, Grainger Street, Lochgelly, KY5 9HY and now care of her agents, Purple Bricks Group plc, having a place of business at Cranmore Place, Cranmore Drive, Solihull, B90 4RZ**

**Notice to Landlord and Registered Proprietor**

**Mrs. Mee Hong Tiang (“the Landlord”) having an address sometime at 90, Grainger Street, Lochgelly, KY5 9HY and now care of her agents, Purple Bricks Group plc, having a place of business at Cranmore Place, Cranmore Drive, Solihull, B90 4RZ**

Whereas in terms of its decision dated 8 June 2022, the First-tier Tribunal for Scotland determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and, in particular, that the Landlords had failed to comply in respect of Section 13(1)(d) of the Act, the First-tier Tribunal now requires the Landlord to carry out the following works or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good.

The Landlord must on or before 1 July 2022: -

1. Employ suitably qualified tradesmen to install the washing machine within the kitchen unit area of the Property so that the washing machine is in proper working order and is housed under the kitchen worktop and
2. Make good any decoration associated with the completion of the foregoing works.

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

In Witness Whereof these presents printed on this and the preceding page are subscribed by Karen Moore, Chairperson of the tribunal, at Glasgow on 8 June 2022 before this witness, Norman William Moore, solicitor, Muirfield Business Centre, 1A, South Muirhead Road, Cumbernauld, G67 1 AX

# K Moore

# Housing and Property Chamber First-tier Tribunal for Scotland



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

**STATEMENT OF DECISION:** in terms of Section 24 (1) of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22 of the Act

**Chamber Ref:** FTS/HPC/RP/21/2723

**Re:** Property at 63 Stewart Road, Falkirk, FK2 7AQ registered in the Registers of Scotland under Title Number STG73635 (“the Property”)

**The Parties:**

**Mr. Duncan McPhee** residing at the Property (“the Tenant”)

**And**

**Mrs. Mee Tiang** (“the Landlord”) care of her agents, **Purple Bricks Group plc**, having a place of business at **Cranmore Place, Cranmore Drive, Solihull, B90 4RZ** (“the Landlords’ Agents”)

**Tribunal Members:**

Karen Moore (Chairman) and Sara Hesp (Surveyor and Ordinary Member)

## **Decision of the Tribunal**

The Tribunal determined that the Landlord has failed to comply with the duty imposed on her by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Section 13(1)(d) of the Act and had not failed to comply with that duty in respect of Section 13(1)(a) of the Act

## **Background**

1. By application received on 30 November 2021 (“the Application”), the Tenant of the Property 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 her by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1)(a) and 13(1)(d) of the Act. The Application comprised a copy of the tenancy agreement between the Parties, copy email correspondence between the Tenant and the Landlords’ Agents regarding repairs to the Property and photographs of the condition of the Property.

2. The Application noted the following heads of complaint :-
  - i. The bathroom window including the frame requires to be replaced and ;
  - ii. The washing machine requires to be replaced.
3. The Application was referred to the Tribunal. An Inspection of the Property was fixed for 10 February 2022 with a Hearing fixed for 17 February 2022. The Inspection and Hearing and a later Inspection were cancelled and re-scheduled to 31 May 2022 at 10.00 and 14.00 respectively.

### **Inspection and Hearing**

4. The Inspection of the matters complained of in the Application took place at the Property on 31 May 2022 at 10.00 in accordance with the tribunal chamber's Covid-19 protocol. The Tenant and the Landlord were present. The Tenant accompanied the Tribunal members and the Landlord remained outside of the Property. The Landlord then inspected the Property and the Tribunal Members remained outside of the Property. The Landlords' Agents were not present or represented. At the Inspection, the Tenant advised that the bathroom window had been repaired.
5. The Tribunal made a photographic record at the Inspection which is annexed hereto and referred to for its terms.
6. The Hearing took place on 31 May 2022 at 14.00 by telephone conference call. The Tenant and the Landlord were present. The Tenant was accompanied by and represented by his mother, Mrs. Sheena McPhee, who spoke on his behalf. The Landlords' Agents were not present or represented. The Landlord was not represented.
7. The Inspection was discussed with the Parties.
8. With regard to the bathroom window, Mrs. McPhee explained to the Tribunal that, although the window had been repaired, there was still a significant draught. The Landlord explained that she had attempted further repairs, but the Tenant had not made access possible. On behalf of the Tenant, Mrs. McPhee disputed that further attempt at repairs had been made. The Tribunal advised that its finding at the Inspection was that the window, when closed, was adequately sealed.
9. With regard to the washing machine, the Landlord accepted that this appliance is situated in the centre of the kitchen/living area but could not explain why that is the case. Mrs. McPhee explained to the Tribunal that the Landlord and, as far as she is aware, the Landlord's cousin who attended to repair the washing machine, had moved it to its current position and that it would appear that the plumbing connection is not sufficient for it to be integrated or placed under the worktop. The Tribunal advised that its finding at the Inspection was that the plumbing for the washing machine was not adequate and so the washing machine is not capable of being integrated or placed under the worktop.

## **Findings of Fact**

10. The Tribunal's findings in fact were made from the Application, the Inspection and the Hearing.
11. The Tribunal found the following matters established: -
  - a. There is a private residential tenancy of the Property between the Parties;
  - b. The bathroom window is in an adequate condition and
  - c. The washing provided by the Landlord is situated in outwith its housing and does not appear to be properly connected.

## **Issues for the Tribunal**

12. In these proceedings, the Tribunal's statutory function in terms of Section 24(1) of the Act is that it must "decide whether the landlord has complied with the duty imposed by section 14(1)(b)" of the Act. Accordingly, the issues to be determined by the Tribunal are whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (a) and 13(1) (d) of the Act at the date of the Inspection.

## **Decision of the Tribunal and reasons for the decision.**

13. In respect of the complaint in terms of Section 13(1) (a) that the Property is not wind and watertight and reasonably fit for human habitation, the Tribunal found that, although a gap is visible in the frame of the bathroom window when the window is opened, there is no gap when the window is closed. The Tribunal is bound to give consideration to the age and type of Property. Given the age of the Property and the type of window, the window is in good working order and so the Property is wind and watertight reasonably fit for human habitation. Accordingly, the Tribunal found that the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
14. In respect of the complaint in terms of Section 13(1)(d) that the Landlord has failed to ensure that any fixtures, fittings and appliances provided by the Landlord are in a reasonable state of repair and in proper working order, the Tribunal found that, from the position of the washing machine and a visual inspection of the plumbing connected to the washing machine, the Tribunal could not be certain that it is in a reasonable state of repair and in proper working order. Accordingly, the Tribunal found that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
15. The decision is unanimous.

## **Repairing Standard Enforcement Order**

16. Having determined that the Landlord has failed to comply with the duty imposed by section 14(1)(b), the Tribunal proceeded to make a Repairing Standard Enforcement Order as required by Section 24 (1) of the Act.

## **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.

Signed

Karen Moore, Chairperson

8 June 2022

# **K Moore**