



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

Property at 56 Mungalhead Road, Falkirk, FK2 7JG, being subjects registered in the Land Register of Scotland under Title Number STG13493 (“the Property”).

The Parties: -

Falkirk Council, per their employee, Mrs Kate McFarlane, Private Sector Officer, Callander Business Park, Falkirk, FK1 5XR, as third party applicant in terms of section 22(1A) of the Act (“the Third Party Applicant”) and

Diamond Administration Limited, having a place of business at 2 Carronvale Road, Larbert, Stirlingshire, FK53LZ (“The Landlord”), and

Ms Sharleen Graham, residing at 56 Mungalhead Road, Falkirk, FK2 7JG (“The Tenant”)

Andrew Cowan (Chairman) and Greig Adams (Ordinary Member)

Background

1. By application dated 24th April 2023 (hereinafter referred to as “the Application”) the Third Party Applicant applied to the Tribunal for determination as to whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.
2. The Application stated that the Third Party Applicant considered that the Landlord had failed to comply with the duty to ensure the House meets the Repairing Standard and, in particular the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

13(1) c. The installations in the house for the supply of water, gas and electricity and

sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;

13(1) d. Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order;

13(1) g. The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

3. The Third-Party Applicant has stated, within the application, details as to why they consider the Landlord has failed to meet the Repairing Standard. By letter, dated 23rd March 2023, the Third-Party Applicant had intimated to the Landlord a list of documents which they considered the Landlord required to exhibit to demonstrate that the Property met the Repairing Standard. The Third Party had requested the documentation as Prescribed Information under the Private Landlord Registration (Information)(Scotland) Regulations 2019.
4. A summary of the issues brought forward by the Third Party Applicant in the Application, which has been intimated to the Landlord, are:-
 - a. The Landlord has not exhibited an Electrical Installation Completion Certificate ("EICR") in relation to the Property
 - b. The Landlord has not exhibited a valid Gas Safety Certificate from a registered Gas Safe Engineer in relation to the Property
 - c. The Landlord has failed exhibit evidence that the Property has been fitted with smoke and heat detectors, together with a carbon monoxide detector in accordance with existing Scottish Governance statutory guidelines.
5. This application was accepted by the Chamber President on 26th May 2023 and was referred for the Tribunal's consideration.
6. By letter dated 28th June 2023, issued to all parties, the Tribunal advised they would inspect the property on 4th August 2023 at 10am. A hearing would then be held at 1145 on the same date at STEP Stirling, Stirling Enterprise Park, John Player Building, Stirling.

Property Inspection

7. The Tribunal convened to inspect the Property on 4th August 2023. No parties attended the

inspection and the Tribunal were unable to gain access inside the Property. From observing the property from outside, and through the windows, the Tribunal were able to note that the Property appeared to be unoccupied. They were able to note that there appeared to be ongoing refurbishment works within the property.

The Hearing

8. A hearing had been intimated to all parties and was held at 1145 at STEP Stirling, Stirling Enterprise Park, John Player Building, Stirling.
9. Mrs Mhairi Ferrie, representing the Third-Party Applicant, attended the hearing. Neither the Landlord or the Tenant attended the hearing.
10. At the start of the hearing the Tribunal outlined their observations from their inspection of the property. In particular they had noted that the property appeared to be unoccupied and undergoing refurbishment
11. Mrs Ferrie advised the Tribunal that she has no information as to whether the current tenancy had been terminated. She explained that the Landlord is the registered Landlord of the Property in the Scottish Landlord Register. She referred to the written information which had been supplied to the Tribunal as part of the Application. That written information included:
 - a. Document titled "summary of non compliance", which summarised the history of the third party's actions following the receipt of initial concerns which were raised regarding the condition of the Property.
 - b. Letter to the Landlord, dated 23rd March 2023, in which the Third Party had requested written evidence from the Landlord including
 - i. an Electrical Installation Completion Certificate ("EICR") in relation to the Property
 - ii. a valid Gas Safety Certificate from a registered Gas Safe Engineer in relation to the Property
 - iii. evidence that the Property has been fitted with smoke and heat detectors in accordance with existing Scottish Governance statutory guidelines.
12. Mrs Ferrie was able to confirm to the Tribunal that the Landlord had not responded to the request for information. She confirmed that the Third Party accordingly sought a Repairing Standard Enforcement Order which would require the Landlord to produce that information to the Tribunal.

Findings in Fact

13.

- a) The Landlord is the registered Landlord in the Scottish Landlords Register in relation to the Property.
- b) The Landlord is letting, or has let the property.
- c) By Letter to the Landlord, dated 23rd March 2023, the Third Party had requested written evidence from the Landlord including
 - i. an Electrical Installation Completion Certificate ("EICR") in relation to the Property
 - ii. a valid Gas Safety Certificate from a registered Gas Safe Engineer in relation to the Property
 - iii. evidence that the Property has been fitted with smoke and heat detectors, and a carbon monoxide detector, in accordance with existing Scottish Governance statutory guidelines.
- d) The Landlord has failed to respond to the letter dated 23rd March 2023.
- e) The Landlord has failed to demonstrate that the Property meets the Repairing Standard in relation to the matters raised by the Third Party in their letter dated 23rd March 2023.
- f) The Property does not currently meet the Repairing Standard and in particular the Landlord has failed to comply with subsections (c) and (f) of Section 13(1) of the Act.

Reasons for Decision

14. The Tribunal were satisfied, on the written evidence which accompanied the Application together with the evidence presented at the hearing, that the Landlord had failed to demonstrate that the Property meets the Repairing Standard in relation to those matters raised by the Third Party in their Application.

Decision

15. The Tribunal accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

16. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act. In particular the Tribunal determined to require the Landlord:

- a. To instruct a SELECT, NICEIC or NAPIT registered electrician to carry out a full inspection of the electrical wiring, installations and apparatus throughout the Property and to repair or renew any parts which are identified in said report to be of Category C1 or C2 to ensure the installation and apparatus is fully functioning and meets current regulatory standards and provide an EICR to the tribunal confirming that the installations, apparatus and wiring meet current regulatory standards.
- b. To produce a valid and up to date Gas Safety certificate in respect of the property as required by the Gas Safety (Installation and Use) Regulations 1998 confirming that the property meets the requirements of those regulations.
- c. Instruct a Gas Safe registered engineer to undertake a full inspection of all gas fittings and appliances within the property and to repair and renew any parts which are identified within the report, including the "final check results".
- d. To provide evidence showing the installation of smoke detectors, heat detectors and carbon monoxide detectors within the property in compliance with the requirements set out in the guidance issued by the Scottish Government in terms of the Housing (Scotland) Act 2006.

17. The Tribunal order that the works specified in the RSEO must be carried out and completed within the period of one month from the date of service of this Notice.

18. The decision of the Tribunal is unanimous.

A Cowan

Chairperson
Andrew Cowan

Date 4th August 2023