

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: FTS/HPC/RP/23/1477

**18 Speckled Wood Court, Dundee DD4 0LY
("The Property")**

The Parties:-

**Miss Fay White, 18 Speckled Wood Court, Dundee DD4 0LY
("the Tenant")**

**Fixrole Limited, 12 Milton Street, Dundee DD3 6QQ
("the Landlord")**

Tribunal Members

**G Harding (Legal Member)
R 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 Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by the Tenant and her representative at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

- 1. By application dated 10 May 2023 the Tenant's representative Mrs Rebecca Falconer, Solicitor, Dundee Law Centre, 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 stated that the Tenant's representative 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 Landlords had failed to ensure that:-**

- (a) The house is wind and watertight and in all other respects reasonably fit for human habitation.
- (b) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
- (c) 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.
- (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.

Specifically, the Tenant's representative complained that:-

The bathroom window glass needed replaced.

A new extractor fan was needed in the bathroom.

The bathroom walls and ceiling required to be washed and painted with anti-fungal paint.

A new heater was needed in the bathroom.

The fuse box and electric cables in the electric cupboard required boxed in.

All light pendants required to be replaced.

The window handles in the living room needed replaced.

The living room walls needed washed and painted with anti-fungal paint.

The cupboard door in the smallest room required to be put back on.

A heater was needed for this room.

The walls and ceiling in this room needed to be washed and painted with anti-fungal paint.

The main bedroom required to be checked for water ingress.

The walls and ceiling of the main bedroom needed to be washed and painted with anti-fungal paint.

The window handle in the kitchen required to be replaced.

The kitchen cabinet door and drawer fronts required to be replaced

- 3. By Minute of Acceptance dated 1 June 2023 a legal member of the Housing and Property Chamber with delegated powers accepted the application and referred 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 the Landlord on 19 June 2023.
- 5. The Tribunal inspected the Property on the morning of 10 August 2023 the Tenant and her partner were in attendance. The Ordinary Member of the Tribunal took photographs of the property which are attached as a schedule to this decision.

6. Following the inspection of the Property the Tribunal held a hearing at Endeavour House, Dundee and heard from both the Tenant, her partner and her representative Mrs Falconer. The Landlord did not attend and was not represented. The Tribunal being satisfied that proper intimation of the hearing had been given to the Landlord determined to proceed in its absence.

The Hearing

7. The Tribunal noted that a new extractor fan had been installed in the bathroom and that the walls and ceiling had been cleaned and painted. The Tribunal also noted that an electrician had attended at the property in February 2023 but that the Tenant had not been provided with any documentation such as an Electrical Installation Condition Report ("EICR"). The Tribunal was advised by the Tenant's partner that the light pendants had been replaced at that time but that four had again broken in the kitchen, lobby, main bedroom and other bedroom.
8. Mrs Falconer confirmed a new heater had been installed in the smallest room but that no other repairs had been carried out. She said there had been no contact from the Landlord's letting agents since 6 March. She said she had written to them by recorded delivery post on 11 May 2023 but there had been no reply.
9. Mrs Falconer confirmed that she was aware that the block in which the property was located was factored by a property factor but she had not contacted them. She said she knew that the Landlord's letting agent had contacted them about the possible water ingress from the roof but was not aware of any progress in this regard.
10. The Tenant confirmed she had been a tenant since 28 November 2017. Her partner advised the Tribunal that when it was wet water entered the property through gaps in the windows. The Tribunal noted that the Tenant did not complain about the condition of the windows themselves in her application but only about the broken handles. The ordinary member pointed out that it appeared that the seals on the double glazed units were broken causing the windows to mist.
11. The Tribunal noted that the cupboard door in the smallest room had come off through use and required to be reinstalled. Mrs Falconer said that the Landlord's letting agent had agreed at their meeting in February that the kitchen needed to be replaced and was going to recommend that to the landlord but if the Landlord was not willing to fund that then it should replace the missing door fronts but nothing further had been done.
12. The Tenant's partner advised the Tribunal that some roof tiles had been missing for a few years and he believed that this contributed to the damp and mould issues in the property. He said nothing had been done to replace the tiles as it required all owners to agree to the repair.

Findings in fact

13. The parties entered into a Short Assured Tenancy that commenced on 28 November 2017.
14. By letter dated 11 May 2023 the Applicant's representative complained to the Landlord's letting agent that the property did not meet the repairing standard.
15. The Landlord's letting agent did not respond to the letter of 11 May.
16. The glazing in the bathroom is broken and in a dangerous condition.
17. A new extractor fan has been fitted in the bathroom and the walls washed and painted.
18. An electrician attended at the property in February 2023 and inspected the electrical installations and replaced some pendant light fittings.
19. The Tenant has never been provided with an EICR or Portable Appliance Test Report.
20. A new electric heater has been installed in the smallest room.
21. The pendant light fittings in the lobby, kitchen and both bedrooms are broken.
22. The window handle on one kitchen window is missing and is broken on the other kitchen window.
23. The window handle in the living room is broken.
24. There are missing doors and drawer fronts to the kitchen cabinets.
25. There is staining to the walls and ceiling in the living room.
26. There is mould and staining in the small bedroom and smallest room.
27. The cupboard door in the smallest room requires to be re-instated.
28. There is mould and staining in the main bedroom.
29. There are dislodged tiles on the gable above the property.
30. The seals on the double-glazed windows at the property were broken.

Reasons for the decision

31. The Tribunal observed that some repairs had been carried out to the property following a meeting between the Tenant's representative and the Landlord's letting agent in January 2023. This primarily consisted of installing a new extractor fan in the bathroom and cleaning the walls and ceiling and painting the bathroom. An electric heater was also fitted in the smallest room and an inspection of the electrical installations was also undertaken in February 2023. However, the Tribunal was concerned to note that the Tenant had never been provided with an EICR or Portable Appliance Test Report. The Tribunal noted that the Tenant thought that the cables and circuit breaker box in the hall cupboard ought to be boxed in and considered that this was a matter that would properly be addressed by a suitably qualified electrician in any EICR.
32. Although repairs had been carried out to the bathroom the Tribunal was concerned that the broken glazing in the window had not been repaired and was in a dangerous condition. The Tribunal was satisfied that there was adequate heating provided by the Landlord in the bathroom and adequate ventilation with the installation of a new extractor fan.
33. The Tribunal was satisfied that the pendant light fittings in the lobby, kitchen and both bedrooms were broken and required to be replaced.
34. The Tribunal observed that there were missing doors and drawer fronts in the kitchen and noted from the Tenant's representative that the Landlord's letting agent had said that they were going to recommend replacing the kitchen due to its condition. The Tribunal could see that the kitchen was dated and reaching the end of its useful life and was satisfied that at the very least the cabinet doors and drawer fronts needed to be re-instated.
35. Although the double-glazed windows needed to be replaced, the Tenant's application as regards the windows was restricted to complaints about the window handles. The Tribunal therefore is unable to insist as part of a Repairing Standard Enforcement Order at this time that the windows are replaced only that the handles are put back into working order. The Tribunal would however strongly recommend that the Landlord give consideration to replacing the windows as had it been raised as a complaint the Tribunal would have required the windows to be replaced.
36. The Tribunal was satisfied from the submissions of the Tenant's partner that the cupboard door in the smallest room had become detached simply through age and use and not through any mistreatment and that it was therefore reasonable for the Landlord to re-instate it.

37. The Tribunal observed the mould and staining in the living room and bedrooms. It noted that on the day of the inspection the walls were dry with no obvious signs of water ingress however it was also noted that there were some dislodged tiles on the gable above the property. The Tribunal concluded that further investigation of the likely cause by a suitably qualified professional person was required in order that an appropriate remedy can be ascertained

Decision

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

39. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

40. The decision of the tribunal was unanimous.

Right of Appeal

41. A landlord or tenant 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

42. 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.

Signed G Harding

Date 22 August 2023

Chairperson

Photographs taken during the inspection of 18 Speckled Wood Court, Dundee, DD4 0LY
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Front – top floor maisonette



Kitchen

Photographs taken during the inspection of 18 Speckled Wood Court, Dundee, DD4 0LY
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No handle on the Kitchen window



Broken handle in second Kitchen window

Photographs taken during the inspection of 18 Speckled Wood Court, Dundee, DD4 0LY
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Broken window handle in the Living-room



Staining in the Living-room

Photographs taken during the inspection of 18 Speckled Wood Court, Dundee, DD4 0LY
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Electrical cables, meters and consumer units



Pendant above the landing

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Mould and staining in the small Bedroom



Mould and staining in the small Bedroom

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Cupboard door in the small Bedroom



Broken glass in the Bathroom window

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New extractor fan in the Bathroom



Mould in the main Bedroom

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Mould in the main Bedroom



Dislodged tiles on the gable above the subject property