

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision: Housing (Scotland) Act 2006 Section 22(1)

Chamber Ref: FTS/HPC/RP/18/1376

Title no/Sasines Description: ANG37688

**5A Abbotsford Place, Dundee DD2 1DH
("The Property")**

The Parties:-

**Miss Ingrid Smith, 5A Abbotsford Place, Dundee DD2 1DH
("the Tenant")**

**Mr Mohammed Razaul Karim and Ms Monira Karim, 1/L 2 Morgan Place,
Dundee DD4 6LZ
("the Landlords")**

The Tribunal

**Graham Harding (Legal Member)
Mike Links (Ordinary Member)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the property does not meet the repairing standard. The Landlords have not complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. A Repairing Standards Enforcement Order is necessary.

The decision is unanimous.

Background

1. By Application received by the Tribunal on 12 June 2018 the Tenant complained to the Tribunal that the property did not meet the repairing standard in that it was:-
 - a) Not wind and watertight and in all other respects reasonably fit for human habitation;
 - b) The installations in the house for the supply of water, gas and electricity and for sanitation and heating were not in a reasonable state of repair nor in proper working order;

- c) The fixtures and fittings and appliances provided by the landlords under the tenancy were not in a reasonable state of repair and in proper working order.
2. Specifically, the Tenant complained that the windows were not wind tight, one window in a bedroom did not open. There was also water damage in the bathroom and the central heating and hot water system was not energy efficient.
3. By Minute dated 14 June 2018 a Convenor with delegated powers referred the application to a Tribunal.
4. Neither party lodged written responses to the Tribunal in advance of the Inspection and Hearing assigned for 30 August 2018.

The Inspection

5. The Tribunal inspected the property at 10.00am on 30 August 2018. The Tenant was present at the inspection as was the Landlord, Mr Karim along with a representative Mr Graham Bradley.
6. Photographs were taken by the Tribunal during the inspection. Copies of the photographs are attached as a schedule to this Decision.

The Hearing

7. Neither the Landlords nor their representative attended the hearing which was held at Dundee Carers Centre, 132-132 Seagate Dundee on 30 August at 11.30am. The hearing was attended by the Tenant.
8. The Tenant confirmed that all the windows to the front of the property had been replaced by the Landlords prior to the hearing and that she was now happy with these. There was no longer a draught from the front windows. The Tenant said that there was a draught from a floor vent in the lounge but understood that the vent was necessary because of the location of the gas boiler.
9. According to the tenant she did not think there was an issue with the rear windows and she thought they all opened and closed properly. She did not think there was a draught from them.
10. The Tenant acknowledged that there had not been any high damp meter readings on the stained area on the bathroom ceiling and that the alleged water damage in the bathroom was no longer an issue.
11. The Tenant stated that her biggest issue was that in the five years she had been a tenant in the property she had never found the house to be warm. She said the radiators did get hot but the rooms did not. She explained to the Tribunal that she had been advised by a gas engineer when the boiler was being serviced that the gas fire was not economical to use and that at one point some years ago a sticker had been put on it saying it must not be used.

The Tenant said she did not know if it could now be used or not. She said she struggled to get sufficient hot water.

12. The Tenant said that she had tried to get assistance from a government scheme to get a new boiler but the legislation had changed and she was not eligible. She said that in the colder months from October onwards even with the central heating on the temperature in the living room never rose above 15 degrees.
13. The Tribunal had noted at the inspection that the landlord might be prepared to install a larger radiator in the living room. The Tenant said that she did not know if that would make a difference or not.

Findings in Fact

14. The property is a ground floor flat in a tenement block of traditional construction and is under one hundred years old. It consists of an entrance hall way, living room, two bedrooms, kitchen and bathroom.
15. The Tenant has occupied the property for approximately five years.
16. By letter dated 11 February 2018 the Tenant intimated her complaints regarding the property to the Landlords.
17. Prior to the inspection and hearing the landlords replaced the windows to the front of the property with new UPVC double glazed windows.
18. The windows to the rear of the property are in proper working order.
19. There was no indication of water ingress in the bathroom and damp meter readings were normal.
20. The gas boiler providing central heating and hot water is of some considerable age and may be near the end of its useful working life.
21. There is a danger notice attached to the gas fire in the living room. The Tenant does not use the fire and the room is not adequately heated by the existing radiator.

Reasons for Decision

22. As the landlords had replaced the windows at the front of the property with new UPVC windows the Tribunal was satisfied that this part of the Tenant's complaint had been addressed in advance of the hearing and was no longer an issue.
23. As there was no indication of recent water ingress in the bathroom with normal damp meter readings being obtained the Tribunal was satisfied that this part of the Tenant's complaint should not be upheld.

24. Given that the central heating was not on at the time of the inspection and also that there was a danger notice attached to the gas fire in the living room the Tribunal could only rely on the oral evidence of the Tenant in support of her complaint with regards to the provision of heating and hot water in the property. It was however evident that the gas boiler was of a type that was of some considerable age and it therefore seemed to the Tribunal that it would be appropriate for the entire central heating, hot water system and gas fire to be inspected by a reputable gas engineer and for any recommended repairs or renewals to be carried out.

Decision

25. The Tribunal determined that the Landlords have not complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. The Tribunal therefore made a Repairing Standards Enforcement Order.

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.

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.

Graham Harding
Chairperson

6 September 2018

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Schedule of Photographs

5A Abbotsford Place, Dundee DD2 1DH

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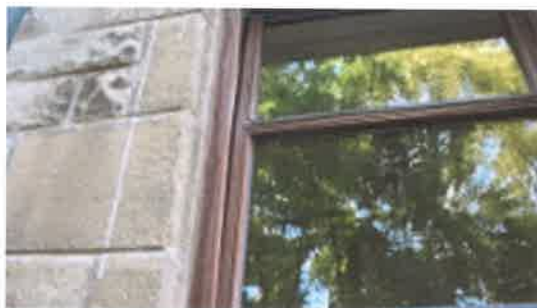
30th August 2018



FRONT ELEVATION



REAR ELEVATION



REAR WINDOW



KITCHEN WINDOW



BATHROOM WINDOW



REAR BEDROOM WINDOW



STAIN – BATHROOM CEILING



MOISTURE METER INDICATING "DRY"



BAXI BERMUDA GAS FIRE/CH BOILER



"DANGER" NOTICE ON GAS FIRE



LIVING ROOM RADIATOR



GAS SAFETY CERTIFICATE



LEGIONELLA RISK ASSESSMENT



ENERGY PERFORMANCE CERT.



ELEC INSTALLATION CONDITION REPORT