

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/22/4092

**Flat 4, 38 Tay Street, Perth PH1 5TR
("The Property")**

The Parties:-

**Ms Dvorah Mariska McGorski, Flat 4, 38 Tay Street, Perth PH1 5TR
("the Tenant")**

**SGL Investment Limited, 86 Bell Street, Dundee DD1 1HN
("the Landlord")**

Tribunal Members

Graham Harding (Legal Member)

David Godfrey (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 the Tenant 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 9 November 2022 the Tenant's representatives Gilson Gray LLP, Solicitors, Edinburgh 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 house meets the tolerable standard.

Specifically, the Tenant's representative complained that:-

"The windows which are of wooden construction are rotten and contain no sealant. They are not wind and watertight and fail to insulate the property and draught and cold air can be felt through the glass."

- 3. By Notice of Acceptance dated 22 November 2022 a Legal Member of the Tribunal with delegated powers accepted the application and an inspection and hearing was assigned.
- 4. By emails dated 27 January and 14 February 2023 the Tenant submitted further written representations.
- 5. An inspection and hearing assigned for 20 February 2023 was postponed due to the non-availability of a Tribunal member and a further inspection and hearing assigned.
- 6. By email dated 17 April 2023 the Tenant's representatives advised the Tribunal that they were no longer representing the Tenant.
- 7. The Tribunal inspected the Property on the morning of 3 May 2023 the Tenant was present during the inspection. The Ordinary Member of the Tribunal took photographs of the property which are attached as a schedule to this decision.
- 8. Following the inspection of the Property the Tribunal held a hearing by teleconference and heard from the Tenant. The Landlord did not attend nor were they represented.

The Hearing

- 9. The Tenant explained that she had little to add to the written representations submitted by her previous solicitors and her own statement other than to say that it would be helpful to have the windows repaired or replaced. She said that the bedroom windows were particularly bad and that in wet weather the inside of the windows were saturated from incoming rain. She also said having the windows repaired would help with her heating costs that currently amounted to £400.00 per month. The Tenant went on to say that despite the Landlord obtaining quotes for carrying out repairs to the windows in 2020, 2021 and 2022 no repairs had been undertaken and she felt that the Landlord was not interested in undertaking any repairs to the windows.

Summary of the issues

10. The issues to be determined are whether the house is wind and watertight and in all other respects fit for human habitation and whether it meets the tolerable standard.

Findings in Fact and Law

11. The Tribunal finds the following facts to be established:-

- The tenancy is a private residential tenancy that commenced on 18 June 2020.
- The tenant has complained to the landlord's representatives, Belvoir Letting, Perth about the condition of the windows between shortly after the commencement of the tenancy in 2020 and October 2022.
- The sash and case windows throughout the property are in need of repair with most having broken cords.
- A pane in the kitchen window is cracked.
- There is a gap between the window and the frame in the dining room window.
- The bathroom window has been painted closed and the opening mechanism is defective.
- The front living room window has been sealed shut.
- There is a gap between the window and the frame in the gable wall living room window.
- There is missing putty and rotted window frame in the front bedroom.
- The windows throughout the property are weathered externally.
- The property does meet the tolerable standard however it does not meet the repairing standard.

Reasons for the decision

12. The Tribunal was satisfied from its inspection of the property that all of the windows throughout the property were in need of repair. It was apparent from the written representations and oral evidence from the Tenant that the issues complained of regarding the windows were longstanding. Although the Landlord or its representatives may have obtained quotes for carrying out repairs in the past no significant repairs had been instructed and at the time of the inspection the overall condition of the windows was such that it was quite obvious that substantial repairs were required in order to make the property wind and watertight. It would have been helpful if the Landlord had participated in the proceedings to offer some explanation as to why repairs had not been carried out despite the tenant's requests. However, given the condition of the windows at the property the Tribunal is in no doubt that the property does not meet the repairing standard as it is not wind and watertight and in all other respects fit for human habitation.

Decision

13. The Tribunal accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
14. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
15. The decision of the tribunal was unanimous.

Right of Appeal

16. **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

17. 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

Date 4 May 2023

Chairperson