



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Section 24(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/22/1196

Property : 36 The Hedges, Camelon FK1 7AY (“Property”)

Parties:

Falkirk Council, The Forum, Callender Business Park, Falkirk KK1 1XR (“Third Party”)

Lindsay Grant, 36 The Hedges, Camelon FK1 7AY (“Tenant”)

Sadia Ahmed, 17 Herries Road, Glasgow G41 4DE (“Landlord”)

Tribunal Members :

Joan Devine (Legal Member); Nick Allen(Ordinary Member)

DECISION

The Tribunal determined that the Landlord has not failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("Act") in relation to the Property. The Tribunal therefore refuses to issue a repairing standard enforcement order. The Tribunal's decision is unanimous.

Background

1. By application submitted on 27 April 2022, the Third Party applied to the Tribunal for a determination that the Landlord had failed to comply with their duties under Section 14(1) of the Housing (Scotland) Act 2006 ("the Act").
2. In the application, the Third Party stated that they believed that the Landlord had failed to comply with their duty to ensure that the property met the repairing standard as set out in Sections 13(1)(c)(f)(g) and (h) of the Act. The Application stated that:
 - The Landlord had failed to confirm that the Property had correct smoke and heat detection
 - The Landlord had not provided copies of the EICR, EPC or Gas Safety (if applicable)
3. The Application was referred to the Tribunal and an inspection and Hearing were fixed for 20 July 2022.

4. Prior to 20 July 2022 the Landlord submitted written representations in which they stated that there was no gas in the Property. They provided a copy EICR dated 24 June 2022 prepared by Stuart William Hughes of EICR Ltd (“EICR”) and an EPC dated 7 April 2022. The Landlord had provided along with the EICR certification from Scottish Qualifications Authority that Mr Hughes had attained “Electrical Installation Level 3” and “Requirements for electrical Installations to BS 7671”; certification from Scottish Qualifications Authority of the full record of attainment for Mr Hughes up to November 2019 and copy card from Scottish Joint Industry Board for the Electrical Contracting Industry noting qualifications. They also provided photographs of smoke and heat detectors stated to be in the Property.
5. The Tribunal attended the Property on the morning of 20 July 2022 but was unable to gain access. A Hearing took place on 20 July 2022 by conference call. Reference is made to the Note of that Hearing dated 20 July 2022.
6. The outcome of the Hearing was that Tribunal determined to issue a Direction that (a) the Third Party clarify whether or not the provision for detection of smoke, heat and carbon monoxide in the Property was now satisfactory, and (b) the Landlord provides evidence that the EICR was completed by a Competent Person as defined in the Scottish Government Guidance dated October 2015 (“Guidance”) published pursuant to section 19B(4) of the Act.

Further Evidence Provided

7. The Third Party attended the Property on 2 August 2022. By email dated 2 August 2022 the Third Party advised the Tribunal that the provision for smoke and heat detection in the Property was satisfactory.
8. By email dated 3 August 2022 the Landlord provided to the Tribunal a completed checklist in the format in Annex A to the Guidance along with certificate of incorporation of EICR Scotland Ltd; policy schedule for public liability insurance of £5,000,000 for EICR Scotland Ltd for the period 19 June 2022 to 18 June 2023 and card for Stuart Hughes from the Electrotechnical Certification Scheme valid until 30 August 2025.

Findings in Fact

9. Tribunal made the following findings in fact:
 - The tenancy is a tenancy of a house let for human habitation, which does not fall within the exceptions set out in Section 12(1) of the Act. The provisions set out in Chapter 4 of the Act therefore apply.
 - The provision for smoke and heat detection in the Property is satisfactory.
 - The electrical installations in the Property are in a reasonable state of repair and in proper working order.

Reasons for Decision

10. On the basis of the evidence supplied to the Tribunal it was apparent that the issues raised in the Application had been dealt with. The Third Party had accessed the Property and was satisfied that the provision for smoke and heat detection was satisfactory. The documentation supplied by the Landlord regarding the EICR indicated that the individual who had prepared the EICR was a Competent Person in terms of the Act.

Decision

11. The Tribunal determined that the Landlord has not failed to comply with the duty imposed by Section 14(1)(b) of the Act. The Tribunal therefore refuses to make a repairing standard enforcement order as required by Section 24(2) 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.

**Legal Member
10 August 2022**