



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/22/3601

Property : 257 Carron Road, Bainsford, Falkirk FK2 7SG (Registered under title number STG49200) (“Property”)

Parties:

Falkirk Council, The Forum, Suite 2, Callendar Business Park, Falkirk KK1 1XR (“Third Party”)

Waqar Hussain, 257 Carron Road, Bainsford, Falkirk FK2 7SG (“Tenant”)

Previously Tanveer Ahmed, 24 Crozier Crescent, Larbert FK5 4AR succeeded by Shire Housing Ltd, 5 Cluny Drive, Stenhousemuir FK5 4UA (“Landlord”)

Tribunal Members :

Joan Devine (Legal Member); Sara Hesp (Ordinary Member)

DECISION

The Tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the Property in respect that the Property does not meet the Repairing Standard in respect of Section 13(1)(c) of the Act. The Tribunal therefore issues a repairing standard enforcement order. The Tribunal's decision is unanimous.

Background

1. By application received on 30 September 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 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)(d)(e)(f)(g) and (h) of the Act. The Application stated that the work which required to be carried out was:
 - Fit smoke detector on top landing of hall (to be interlinked to other alarms)
 - Fit smoke detector in living room (to be interlinked to other alarms)
 - Fit heat detector in kitchen (to be interlinked to other alarms)
 - Provide a copy of a current Electrical Condition Installation Report (“EICR”) from a SELECT, NICEIC OR NAPIT registered electrician following a full inspection of the electrical installation and apparatus throughout the Property confirming the installation and apparatus is fully functioning and

meets current regulatory standards and containing no category C1 or C2 items of disrepair. The EICR should include specific reference to the provision for smoke and heat detection in accordance with existing Scottish Government guidelines.

- Provide a copy of the current Gas Safety Certificate from a registered Gas safe engineer which refers to the provision for carbon monoxide detection.
 - Fit a carbon monoxide detector.
 - Repair or replace leaking washing machine.
 - Repair hole in wall to left side of washing machine.
 - Replace damaged work top above washing machine.
 - Assess washing machine drainage system as it causes water to rise into the sink.
 - Repair leaking pipe below sink.
 - Repair electric socket below worktop (to right of sink) which is loose from wall and exposed.
 - Repair door of wall mounted unit (to right of sink) which is held in place by tape.
 - Repair defective laminate flooring in living room (in front of central heating radiator at door) floor is spongy.
 - Repair uneven laminate flooring on top landing of hall (between living room and bedroom 1 – adult’s room) - trip hazard.
 - Repair defective laminate flooring in bedroom 1 (adult’s room – next door to living room) floor is spongy at entrance to room, in middle of room and at window.
 - Repair defective laminate flooring in bedroom 2 (child’s room) at entrance floor is spongy.
3. The Application was referred to the Tribunal and an inspection and Hearing were fixed for 13 April 2023.
4. On 20 December 2022 the Landlord provided a copy of a current EICR. By email dated 13 February 2023 the Third Party Applicant advised the Tribunal that the Property had been sold to Shire Housing Ltd. By email dated 23 March 2023 the Landlord told the Tribunal that all works required had been carried out. The Tribunal sought confirmation of the position from the Third Party Applicant without success.

The Inspection

5. The Tribunal inspected the Property on the morning of 13 April 2023. The weather conditions at the time of the inspection were overcast and dry. The Tenant was present at the Property during the inspection. The Property is an upper floor flat within a “4 in a block” property. A schedule of photographs taken at the inspection is provided with this Decision.

The Hearing

7. The Hearing took place on 13 April 2023 by conference call. Neither the Tenant or the Third Party were in attendance. Gordon Daly from the Landlord was in attendance. Mr Daly told the Tribunal that he had a gas safety certificate and would forward a copy to the Tribunal. As regards the flooring, Mr Daly said he thought that the laminate flooring had been placed on top of carpet. He said that the Landlord intended to replace the flooring throughout the Property one room at a time to allow the Tenant to empty one room at a time. He said that work was scheduled to start on 29 April 2023. He said that the Landlord also intended to decorate each room after the flooring had been replaced. He said the Landlord also intended to fit an extractor in the bathroom and shelving in the kitchen.

The Evidence

8. The evidence before the Tribunal consisted of:
 - 8.1 The Application completed by the Third Party Applicant
 - 8.2 Land Register report relating to the Property
 - 8.3 Notification letter to the original landlord dated 17 August 2022
 - 8.4 The Tribunal's inspection of the Property
 - 8.5 The oral representations of the Landlord

Summary of the Issues

9. The issue to be determined was whether the Property meets the repairing standard as set out in Section 13 of the Act and whether the Landlord had complied with the duty imposed on them by Section 14(1)(b).

Findings in Fact

10. Tribunal made the following findings in fact:
 - 10.1 The Tenant has lived in the Property since 1 January 2016.
 - 10.2 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.
 - 10.3 The Tribunal in its inspection carefully checked the items which were the subject of the application. Inside the Property the Tribunal observed the following:
 - 10.3.1 Smoke alarms had been fitted in the upstairs hall and living room.
 - 10.3.2 A heat detector had been fitted in the kitchen.

- 10.3.3 The alarms were interlinked.
- 10.3.4 A CO detector had been fitted outside the cupboard that houses the boiler.
- 10.3.5 A new kitchen had been installed including a new washing machine and new worktops.
- 10.3.6 The hole in the wall beside the washing machine had been repaired.
- 10.3.7 The defective electric socket below the worktop had been removed.
- 10.3.8 The leaking pipe below the sink had been repaired.
- 10.3.9 The flooring in the hallway, living room and bedroom 1 was worn
- 10.3.10 The flooring in bedroom 2 was a potential trip hazard

Reasons for Decision

11. Following its inspection and the hearing, the Tribunal determined that the Property does not meet the repairing standard as required by Section 13(1) (c) of the Act. The Tribunal noted that although the Landlord had undertaken to provide a copy of the gas safety certificate following the Hearing, this had not been supplied.

Observation

12. The Tribunal noted that the flooring in the hallway, living room and bedroom 1 and bedroom 2 was worn. The flooring in bedroom 2 was particularly worn and was a possible trip hazard. The Tribunal noted that Landlord intended to start a programme of works on 29 April 2023 that included replacement of the flooring throughout the Property.

Decision

14. The Tribunal determined that, in the absence of a current gas safety certificate, the Landlord has failed to comply with the duty imposed by Section 14(1)(c) of the Act, and in particular that the Landlord has failed to ensure that the Property meets the repairing standard in that the installations in the Property for the supply of gas are not in a reasonable state of repair and in proper working order.
15. The Tribunal therefore makes 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
20 April 2022**

Housing and Property Chamber
First-tier Tribunal for Scotland



257 Carron Road, Bainsford, Falkirk, FK2 7SG

FTS/HPC/RT/22/3601

Schedule of photographs taken on 13 April 2023



Photograph 1: Hallway: smoke detector



Photograph 2: Living room: smoke detector



Photograph 3: Kitchen: heat detector



Photograph 4: Kitchen: replacement washing machine



Photograph 5: Kitchen: under sink waste



Photograph 6: Kitchen: replacement fittings including units and switches



Photograph 7: Kitchen: replacement fittings including units



Photographs 8 and 9: Hallway flooring



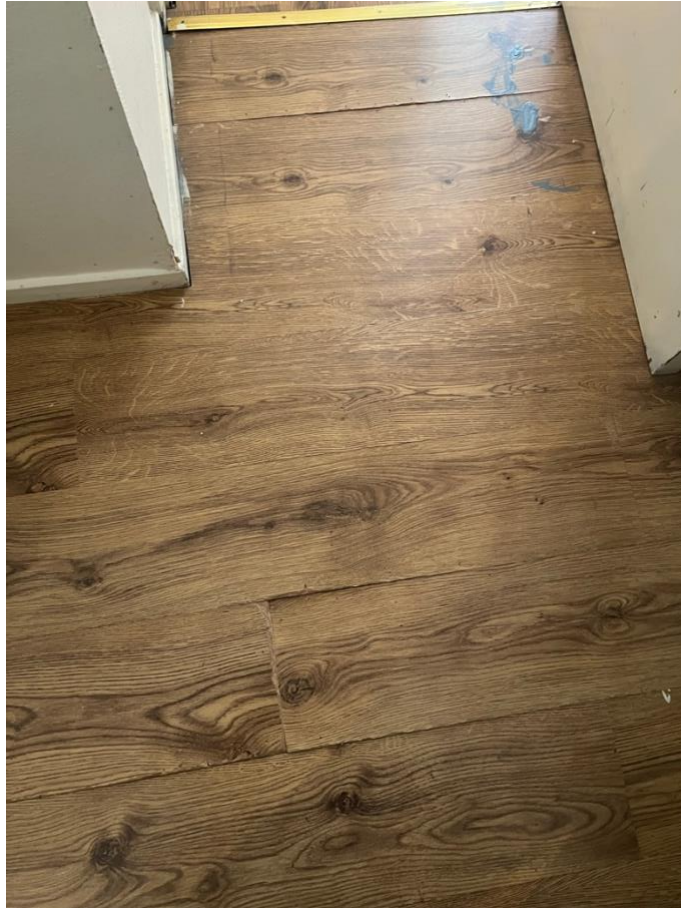
FTS/HPC/RT/22/3601



Photograph 10: Living room: flooring



Photograph 11: Bedroom 1: flooring



Photographs 12 and 13: Bedroom 2: flooring



FTS/HPC/RT/22/3601

Photograph 13: Bedroom 2: Boiler cupboard; carbon monoxide detector

