



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 26 (1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RT/23/1937

Re: Property at Upper Flat, Margaretville, Heads of Muir, Denny FK6 5JX (“the Property”)

Parties:

Falkirk Council Private Sector Team, Suite 2, The Forum, Callendar Business Park, Falkirk FK1 5XR (“the Third-Party Applicant”)

Mr Craig Milne, 38 Glen View, Dennyloanhead, Bonnybridge FK4 1RJ (“the Landlord”)

Tribunal Members:

George Clark (Legal Member) and Greig Adams (Ordinary/surveyor Member)

Decision

The First-tier Tribunal for Scotland Housing and Property Chamber, 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) of the Housing (Scotland) Act 2006 determined that the Landlord has complied with that duty.

Background

1. By application, dated 29 May 2023, the Third-Party Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland (“the Tribunal”) for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).

2. The application referred to a failure by the Landlord to produce a current Electrical Installation Condition Report (“EICR”), a current Gas Safety Certificate, PAT testing records for any mobile electrical appliances and a failure to install smoke and heat detection as per Scottish Government Guidelines and a carbon monoxide monitor. Accordingly, the Landlord had failed to ensure that the installations for the supply of water, gas and electricity are in a reasonable state of repair and in proper working order, and that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. Prior to the scheduled Inspection and Hearing, the Landlord provided the Tribunal with copies of an EICR dated 24 August 2023. The Report had been issued by a NAPIT-registered electrician and contained no C1 or C2 items of disrepair. The Landlord also provided a Gas Safety Certificate issued by a Gas Safe registered engineer on 8 September 2023.

The Inspection

4. The Tribunal inspected the Property on the morning of 26 September 2023. The Landlord was in attendance. The Third-Party Applicant was not represented. A Schedule of Photographs, taken at the inspection, is appended to and forms part of this Statement of Decision. The former tenant is not a Party to the application.

The Hearing

5. Following the inspection, a Hearing was held by means of a telephone conference call. The Third-Party Applicant was represented by Mrs Mhairi Ferrie. The Landlord was not present or represented. The Tribunal advised Mrs Ferrie that it was satisfied with the EICR and Gas Safety Certificate and that the smoke and heat detection systems had been tested at the Inspection and found to be working in series. Mrs Ferrie was content that the issues in the application had been addressed.

Reasons for Decision

6. The Tribunal did not consider the issue of PAT testing but noted that the Property is currently vacant and unfurnished.
7. The Tribunal was satisfied with the EICR and the Gas Safety Certificate provided by the Landlord.

8. The Tribunal noted at the Inspection that there are smoke alarms in the hall and living room of the Property and a heat detector in the kitchen. These were tested and found to be in series and working satisfactorily. There is a fixed carbon monoxide monitor in the cupboard in the front right room, where the boiler is located.

Decision

9. Having considered carefully all the evidence before it, the Tribunal decided that the Landlord has not failed to comply with the duties imposed by Section 14(1)(b) of the 2006 Act.

Right of Appeal

In terms of section 46 of the Tribunals (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.

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.

G Clark

Legal Member

26 September 2023
Date