



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

**Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 24 (1) of the Housing (Scotland) Act 2006.**

**Chamber Ref: FTS/HPC/RP/20/0740**

**78 Douglihill Terrace, Port Glasgow, PA14 5DP registered in the Land Register of Scotland under Title Number REN18616 (“the Property”)**

**The Parties:-**

**Miss Katarzyna Taczowska (“The former Tenant”)**

**J Mulholland and Michael Gillen C/O, Fairlet Property Management, 6 Brougham Street, Greenock, PA16 8AA (“The Landlords”)**

**Fairlet Property Management, 6 Brougham Street, Greenock, PA16 8AA (“The Landlords’ Representative”)**

**Tribunal Members:**

Jacqui Taylor (Chairman) and Andrew Taylor (Ordinary Member)

### Background

1. The former Tenant leased the Property from the Landlords in terms of the lease between the parties, which had been produced. The former Tenant applied to the Tribunal on 3<sup>rd</sup> March 2020 for a determination of whether the Landlords have 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 she considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. She advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order; the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order and the Property does not meet the tolerable standard.

In particular the application stated :-

2.1 There is rising damp in the hallway

2.2 Black mould has previously developed in the bedroom and has required to be cleaned from surfaces.

2.3 There is water penetration at the front door of the Property. The front door is not watertight.

2.4 Part of the canopy above the front door at the Property has fallen down.

2.5 The radiators in the bedroom and living room are leaking

2.6 The electricity supply appears to be connected to the flat above our client's tenancy, and that as a result the electricity supply is turned off periodically. When an electrician attended the Property he advised that the cause of the problem is a dual fuse.

3. On 9<sup>th</sup> March 2020, Maurice O'Carroll, as Convenor of the First-tier Tribunal (Housing and Property Chamber), signed the Notice of Acceptance which stated that he had considered the application, comprising documents received on 9<sup>th</sup> March 2020 and he referred the application under Section 22 (1) of the Act to a Tribunal.

4. The Tribunal received confirmation from the former Tenant that the tenancy of the house has been terminated. In terms of Schedule 2 Paragraph 7(1) of the Housing (Scotland) Act 2006 ("The Act"), the former Tenant is to be treated as having withdrawn the application under Section 22(1) of the Act. The Tribunal considered the application and whether said application should be determined or whether it should be abandoned, all in terms of Schedule 2 Paragraph 7(3) of the Act;

In terms of the decision of the Tribunal dated 9<sup>th</sup> September 2020 the Tribunal determined that as the application concerned health and safety considerations they decided to continue to determine the application.

## **5. Case Management Discussion**

5.1 This case called for a conference call Case management Discussion (CMD) at 2pm on 21st January 2021.

The former Tenant did not attend but as she was no longer a tenant of the Property she was no longer a party to the application.

The Landlords did not attend. The Tribunal Administration had sent them an email on 10<sup>th</sup> December 2020 advising them of the CMD. The Landlords' Representative had replied to the Tribunal Administration by email dated 28<sup>th</sup> December 2020 confirming that they wished to attend the CMD. Accordingly the Tribunal was satisfied that the terms of Tribunal Rule 29 had been met and proceeded with the Case Management Discussion.

5.2 The Tribunal also acknowledged that under normal circumstances, they would arrange for the Ordinary Member to carry out an inspection to assist in the determination by the Tribunal of the application. However this had not been possible, due to the continuing effects of the COVID-19 pandemic. Consequently the Case Management Discussion (CMD) was arranged in order to discuss further procedure in the case and to ascertain if an inspection is required or if other evidence is available or can be agreed.

5.3 In the circumstances, and given the Tribunal's statutory role, and as the Landlords had not attended the CMD it decided that it was necessary to arrange an inspection.

## **6. Inspection**

The Tribunal attended at the Property at 11.30 am on 15<sup>th</sup> July 2021. The Landlords representative, Mr T Ahmed, was present at the inspection.

The Property 78 Dougiehill Terrace, Port Glasgow, PA14 5DP is a modern ground floor flat. The accommodation comprises 1 bedroom, open plan living room, kitchen and bathroom.

The property was vacant at the inspection. The Tribunal inspected the alleged defects and found:-

### **6.1 There is rising damp in the hallway.**

There was no evidence of rising damp in the hallway.

### **6.2 Black mould has previously developed in the bedroom and has required to be cleaned from surfaces.**

There was no black mould in the property.

### **6.3 There is water penetration at the front door of the Property. The front door is not watertight.**

There was no evidence of water penetration at the front door of the Property and the front door was watertight.

### **6.4 Part of the canopy above the front door at the Property has fallen down.**

The canopy had been removed.

### **6.5 The radiators in the bedroom and living room are leaking.**

There was no evidence of leaks from the radiators in the bedroom and living room.

### **6.6 The electricity supply appears to be connected to the flat above our client's tenancy, and that as a result the electricity supply is turned off periodically. When an electrician attended the Property he advised that the cause of the problem is a dual fuse.**

Mr Ahmed advised that he had submitted the EICR to the Tribunal which confirmed that the electrical installation was in proper working order.

Photographs were taken during the inspection and are attached as a Schedule to this Decision.

## **7. Second Case Management Discussion**

This case called for a conference call Case management Discussion (CMD) at 10.00am on 24<sup>th</sup> August 2021.

The former Tenant did not attend but as she was no longer a tenant of the Property she was no longer a party to the application.

Neither the Landlord or the Landlords' representative attended. The Tribunal Administration had sent them an email on 7<sup>th</sup> June 2021 advising them of the inspection and the CMD. At the inspection the Landlords' representative confirmed that he was aware of the CMD details. Accordingly the Tribunal was satisfied that the terms of Tribunal Rule 29 had been met and proceeded with the Case Management Discussion.

The Tribunal acknowledged that they were satisfied that there was no rising damp in the hallway, there was no black mould in the bathroom, there was no water penetration at the front door of the Property and the front door was watertight, the canopy had been removed and the radiators in the bedroom and living room were not leaking.

They also confirmed that they had received a copy of the EICR dated 14th July 2019 which stated that the electrical installation was in a satisfactory condition.

## **8. Decision**

In relation to the items detailed in the application, namely:

- (i) There is rising damp in the hallway*
- (ii) Black mould has previously developed in the bedroom and has required to be cleaned from surfaces.*
- (iii) There is water penetration at the front door of the Property. The front door is not watertight.*
- (iv) Part of the canopy above the front door at the Property has fallen down.*
- (v) The radiators in the bedroom and living room are leaking*
- (vi) The electricity supply appears to be connected to the flat above our client's tenancy, and that as a result the electricity supply is turned off periodically. When an electrician attended the Property he advised that the cause of the problem is a dual fuse.*

The Tribunal determined that none of the items breached the repairing standard and the Landlords had complied with the duties imposed by Sections 13(1) and 14 of the Housing (Scotland) Act 2006, in respect of the matters detailed in the application.

9. The decision of the Committee was unanimous.

## **10. Appeal**

**A landlord, tenant or third party applicant 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.**

# **J Taylor**

Signed

Chairperson

Date: 24<sup>th</sup> August 2021



## Pre-hearing Inspection Summary and Schedule of Photographs



**Property – 78 Dougliehill Terrace, Port Glasgow PA14 5DP**

**Reference-** FTS/HPC/RP/20/0740

**Tribunal Members –** Jacqueline Taylor (Legal Member) & Andrew Taylor ((Ordinary Member)

**Purpose of Inspection –** To prepare a record of the position at the property specifically as it relates to the items raised in the application and any issues arising therefrom.

**Access –** 11.30am, 15th July 2021

**Weather –** Dry, sunny

**In Attendance –** The above Tribunal Members attended the property. Also in attendance was Mr T Ahmed – Fairlet Property Management – Landlord’s Representative.

## Appendix 1

Schedule of Photographs taken during the Inspection on 15<sup>th</sup> July 2021



Damaged canopy at Front Door has been removed



Mould on ceiling at Front Door



Walls/floor at front door





Electrical Distribution Board



Bedroom walls/ceiling



Radiator in Bedroom



Interlinked Smoke Alarm – Living Room



Interlinked Heat Detector in Kitchen

**Andrew Taylor MRICS**

**Surveyor Member, Housing and Property Chamber, First-tier Tribunal For Scotland**

**20<sup>th</sup> July 2021**