



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/21/0141

12 Cow Vennel, Perth, PH2 8PR registered in the Land Register of Scotland under Title Number PTH25421 (“the Property”)

The Parties:-

Jade Christie and Reece Venn residing together at 12 Cow Vennel, Perth, PH2 8PR (“The former Tenants”)

Afzal Noor Mohammed and Sana Mohammed as partners and Trustees of the firm A & S Property, The Old Byre, Cottown, Glencarse, PH2 7NL (“The Landlords”)

Tribunal Members:

Jacqui Taylor (Chairman) and Angus Anderson (Ordinary Member)

1. Background

The Former Tenants leased the Property from the Landlords in terms of the Private Residential Tenancy between the parties, which had been produced. The Former Tenants applied to the Tribunal 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. Application

The application stated that they considered that the Landlords have failed to comply with his duty to ensure that the Property meets the repairing standard. They advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; any fixtures, fittings and appliances provided by the landlord under the tenancy are not capable of being used safely for the purpose for which they are designed and the Property does not meet the tolerable standard.

In particular the application stated :-

- 2.1 The curtain rail in the bedroom needs to be fixed or replaced.
- 2.2 The bathroom sink needs to be fixed and replaced due to a crack.
- 2.3 The mould and damp needs to be assessed and fixed.

3. Notice of Acceptance

On 10th March 2021, Jacqui Taylor, as Convenor of the First- tier Tribunal (Housing and Property Chamber), signed the Notice of Acceptance which stated that she had considered the application, comprising documents received between 17 January 2021 and 1 March 2021 and she referred the application under Section 22 (1) of the Act to a Tribunal.

4. Case Management Discussion

4.1 This case called for a conference call Case management Discussion (CMD) at 10am on 5th March 2021.

The Former Tenants and Afzal Mohammed, one of the Landlords, attended.

4.2 The Tribunal 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. Unfortunately, this has not been possible, due to the continuing effects of the COVID-19 pandemic. Consequently this 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.

4.3:As a preliminary matter the parties agreed to the following amendments being made to the application:

4.3.1 Reece Venn being added as the second tenant.

4.3.2 The designation of the Landlords being amended to Afzal Noor Mohammed and Sana Mohammed as partners and Trustees of the firm A & S Property, The Old Byre, Cottown, Glencarse, PH2.

4.3.3 The Property address being amended to 12 Cow Vennel, Perth, to correspond with the address in the Land Certificate for the Property.

4.4 In relation to the repairs specified in the application the parties advised as follows:

4.4.1 The curtain rail in the bedroom needs to be fixed or replaced.

The parties confirmed that the curtain rail had been repaired.

4.4.2 The bathroom sink needs to be fixed and replaced due to a crack.

Miss Christie explained that the crack to the sink is raised and she considers it to be unhygienic.

Mr Mohammed advised that his plumber had inspected the sink and reported that the sink was not leaking. The crack was a surface hairline crack. However, he confirmed that once the covid restrictions have been lifted he will arrange for the sink to be replaced.

4.4.3 The mould and damp needs to be assessed and fixed.

Mr Mohammed explained that the property is a ground floor flat circa 1995. The accommodation comprises living room, one bedroom, hall, kitchen and bathroom. The property is heated by underfloor electric heating. The windows are double glazed with timber frames and all the windows have trickle vents. The property has its own front door. It has three external walls. There is a drying area to the front of the property.

There are expelair fans in the bathroom and kitchen.

There is a washing machine in the Property and no tumble drier.

An application has been made for a grant to install gas central heating. The installation should have taken place at the end of 2020 but this has been delayed due to the covid pandemic.

Mr Mohammed had provided the Tribunal with the report by Alliance Preservation Scotland Ltd dated 23rd November 2020. The report concluded that the dampness in the Property was condensation and recommended that a flatmaster ventilation unit should be installed. Mr Mohammed confirmed that the unit had been installed on 15th February 2021.

Mr Mohammed explained that he had visited the Property approximately three weeks ago and he saw no condensation on the windows at that time.

Mr Mohammed also advised that he has been leasing the Property for over twelve years and has never seen such condensation in the Property before. There are twenty flats in the development and he owns or manages sixteen of them. Five of the flats are ground floor flats and none of the other ground floor flats are affected by condensation. The only difference between the other ground floor flats and number 12 is the age of the tenants. The tenants of the other ground floor properties are older .

Miss Christie advised that they were advised at the start of the lease that gas central heating would be installed but this has not happened. The lease of the Property started in September 2020 and until March 2021 both herself and Mr Venn had working from home. She confirmed that they open the living room and bedroom windows every day. They dry their clothes in the living room or kitchen when they cannot dry their clothes outside. They bought a dehumidifier which they use when they are drying their clothes in the flat.

The Tribunal asked Miss Christie to describe the photographs which had been submitted with the application. However this was not possible as she did not have a printed copy of the file and the photographs.

Miss Christie explained that there was still condensation in the Property after the flatmaster was installed in February 2021.

Mr Venn advised that they have been cleaning the mould off the walls regularly. However as he suffers from eczema he cannot use bleach as it adversely affects his skin and breathing.

They find the electric heating system to be expensive but notwithstanding this fact they do open the windows. His grandfather is a builder and he suggested applying paint to the walls to cure the dampness.

Miss Christie and Mr Venn both explained that since the Landlords had opened the window vents in October 2020 the window vents have remained open. They also advised that they were not aware of there being any water ingress to the Property. However, they explained that Mr Venn's grandfather had suggested that there may be water ingress from the adjacent car park.

5. Decision

The Tribunal decided that they need to carryout an inspection of the Property before considering the application further. Consequently the case was adjourned to enable the Tribunal to inspect the Property.

6. Inspection

The Tribunal attended at the Property at 11.30 am on 2nd September 2021. Mr Afzal Mohammed, one of the Landlords, present at the inspection. The Former Tenants had vacated the Property before the inspection.

The Property, 12 Cow Vennel, Perth, PH2 8PR is a modern ground floor flat circa 1990. The walls are timber frame construction clad with blockwork externally. The roof is pitched and tiled. The windows are timber framed double glazed original windows. The heating is electric under floor heating in some rooms and electric fan heaters in the kitchen and shower room. The accommodation comprises 1 bedroom, living room, hall, kitchen and shower room.

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

6.1 The curtain rail in the bedroom needs to be fixed or replaced.

The curtain rail had been repaired.

6.2 The bathroom sink needs to be fixed and replaced due to a crack.

The bathroom sink had been replaced.

6.3 The mould and damp needs to be assessed and fixed.

The property is a ground floor flat with three external walls and is closely located to high surrounding properties with the result that the Property will be inherently colder than some similar properties.

The Former Tenants had recently vacated the Property and the Property had recently been painted internally.

There is electric heating in the Property and a recently installed flatmaster ventilation system.

There was no evidence of dampness or mould in the property at the inspection other than residual historic areas of blackening to parts of the window frames and the front door.

There was no evidence of any leaking pipes or water penetration from an adjoining property or the adjacent car park.

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 9th September 2021.

The Former Tenants did not attend but as they were no longer tenants of the Property and they were no longer parties to the application. Mr Afzal Mohammed, one of the Landlords attended.

The Tribunal acknowledged that they were satisfied that the curtain rail in the bedroom had been repaired, the bathroom sink had been replaced and there was no evidence of on going mould or damp in the Property at the inspection.

8.Decision

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

8.1 The curtain rail in the bedroom needs to be fixed or replaced.

The curtain rail had been satisfactorily repaired.

8.2 The bathroom sink needs to be fixed and replaced due to a crack.

The bathroom sink had been replaced.

8.3 The mould and damp needs to be assessed and fixed.

There was no evidence of ongoing mould and damp at the inspection.

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: 13th September 2021