

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)**

**Chamber Ref: FTS/HPC/RT/17/0226**

**Property at 122b Queensberry Street, Dumfries DG1 1BU  
("The House")**

**The Parties:-**

**Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street,  
Dumfries DG1 2AD  
("the Third Party")**

**Decision**

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), 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) 2006 (the Act) in relation to the house concerned, and taking account of the application by the Third Party and supporting documents, determined that the Third Party has not complied with Section 22(3) of the Act and the application cannot proceed.

**The Tribunal consisted of:**

**Rory A.B. Cowan – Legal Member**

**Andrew Taylor – Surveyor/Ordinary Member**

**Background**

1. By application received on 13<sup>th</sup> June 2017 (the Application) the Third Party applied to the First-tier Tribunal: Housing and Property Chamber (the Tribunal) for a determination of whether the landlord for the House had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. In the Application the Third Party detailed a number of alleged deficiencies with the Property that they stated failed to meet the repairing standard. In particular, the Third Party stated that they considered that the landlord for the House had failed to ensure that:-

- (a) the House is wind and water tight and in all other respects reasonably fit for human habitation,**
- (b) the structure and exterior of the House (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order,**
- (c) the installations in the House for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, and**
- (d) The House has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.**

3. By letter dated 11<sup>th</sup> July 2017 the President of the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal.
4. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Third Party and on a Sandra Thom, a person identified in the application as being the agent for the House as well as on a firm of solicitors Messrs Grieve Grierson Moodie and Walker of 14 Castle Street, Dumfries DG1 1DR (the Solicitors) who were designed as executors and landlords in the Application.
5. Included in the documents submitted with the Application was a letter dated 19<sup>th</sup> April 2017 from the Solicitors to the Third Party confirming that the landlord for the House had been a Dilbagh Singh of 4 Annan Road, Dumfries DG1 3AD, but that he had died on 11<sup>th</sup> November 2016 and that they were executry agents and were neither the executors nor the landlords for the House. No details of the executors or the landlord for the House were provided, nor was a copy of the will/trust disposition and settlement.
6. Also included in the documents submitted with the Application was the notification of the issues of alleged disrepair complained of dated 31<sup>st</sup> March 2017. This was addressed to Dilbagh Singh at the address specified in paragraph 5 above. This was the letter the Solicitors were responding to in their letter dated 19<sup>th</sup> April 2017. The Third Party also provided a copy of the printout from the Scottish Landlord Register showing Mr Singh was recorded as the landlord for the House and that Sandra Thom was recorded as the agent. No other notification of the alleged disrepair on any other party was provided by the Third Party.
7. Subsequent to the Notice of Referral, the Solicitors confirmed to the Tribunal by email of 19<sup>th</sup> July 2017 that they were neither the landlord for the House or the executors and were merely executry agents. They also stated in that email that Sandra Thom was the landlord of the House's agent, but did not (and have not) disclosed who the landlord for the House is and when Sandra Thom was appointed as agent for the new landlord for the House following Mr Singh's death.
8. A search of the Scottish Landlord Register reveals that the registered landlord for the House is a Sukhjinder Athwal of 4 Annan Road, Dumfries DG1 3AD. No details

of whether this is held in a representative capacity as executor or trustee or as the eventual beneficiary of Mr Singh or when they became the landlord are listed.

9. No inspection of the House has taken place.

### **Summary of the issues**

10. The issues to be determined are whether:

a) The Application by the Third Party can proceed.

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### **Findings of fact**

11. The Tribunal finds the following facts to be established:-

- That the former landlord for the house was a Dilbagh Singh of 4 Annan Road, Dumfries DG1 3AG who died on 11<sup>th</sup> November 2016.
- That the only notification by the Third Party of any issues of disrepair affecting the House was addressed to the said Dilbagh Singh and issued by the Third Party by their letter dated 31<sup>st</sup> March 2017.
- That the identity of the current landlord for the House is recorded as being Sukhjinder Athwal of 4 Annan Road, Dumfries DG1 3AD.
- That the Third Party has not notified the landlord for the House that work requires to be carried out to the House in order to comply with their duty under section 14(1)(b) of the Act.
- That any relationship of agent between Dilbagh Singh and Sandra Thom ended upon his death on 11<sup>th</sup> November 2016.

### **Reasons for the decision**

12. Taking into account the Application form and supporting documents, as well as the email from the Solicitors, the Tribunal was of the view that the Application could proceed no further.

13. Section 22(3) of the Act only allows applications to be made where the person making the application has "notified the landlord that work requires to be carried out" to a house for the purpose of complying with a landlord's duty under section 14(1)(b) of the Act. The only notification provided by the Third Party was their letter addressed to the former landlord Mr Singh dated 31<sup>st</sup> March 2017, nearly 4 months after his death. The Tribunal could not therefore be satisfied that notification as required by section 22(3) of the Act had been made and as such the Application cannot proceed.

## **Decision**

14. The Tribunal accordingly determined that the Application by the Third Party could proceed no further.
15. The decision of the Tribunal was unanimous.

## **Right of Appeal**

16. 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.
17. 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.

Signed

**R Cowan**

Date .....9<sup>th</sup> October 2017.....

Chairperson