



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/RP/23/1031

Re: Property at Building 6, Flat 5, Elliot Street, Edinburgh EH7 5LU (“the Property”)

Parties:

Mr David Gregory, Building 6, Flat 5, Elliot Street, Edinburgh EH7 5LU (“the Tenant”)

Mr Mark Platt, Gwynfi, 58 Newland Avenue, Driffield, North Humberside YO25 6TX (“the Landlord”)

Tribunal Members:

George Clark (Legal Member) and Andrew Murray (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 Landlords have complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 determined that the Landlords have failed to comply with that duty. The Tribunal made a Repairing Standard Enforcement Order in respect of the Property.

Background

1. By application, dated 28 March 2023, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland (“the Tribunal”) for a determination of whether the Landlord had 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 the windows in the living room and main bedroom have mould and there is very poor insulation. The heaters in the hallway and living room do not work and an electrical socket is held on by duct tape.
3. Both parties made written representations to the Tribunal. Some of their detail relates to other issues between the Parties but, insofar as relevant to the present application, the Landlord stated that he first became aware of the repairs issues in January 2022. He had made multiple unsuccessful attempts to inspect the Property to help resolve matters. It was impossible for him to organise repairs without being allowed access to the Property. He provided the Tribunal with screenshots of messages and copies of written notes relating to attempts to access the Property between May 2022 and July 2023. The Tenant said that the Landlord had been aware of the condition of the Property for some time. He understood that no real maintenance work had been done since the Landlord purchased the Property 20 years ago and this is reflected in the rent and the windows and heaters appear to be original.

The Inspection

4. The Tribunal inspected the Property on the morning of 15 August 2023. The Tenant and the Landlord were in attendance. A Schedule of Photographs, taken at the inspection, is appended to and forms part of this Statement of Decision.

The Hearing

5. Following the inspection, a Hearing was held at George House, 126 George Street, Edinburgh. The Landlord was present. The Tenant was not present or represented. The Landlord said that he had not been in the Property since the COVID-19 lockdown. He noted what the Tribunal had found at the inspection and stated that the factors had told him they were not aware of any issues with the windows of other flats in the Development. He pointed out that he is a full-time carer for his mother in Yorkshire and asked that, if the Tribunal decided to make an Order, he be given as much time as possible to attend to it, given his carer's responsibilities.

Reasons for Decision

6. The Property is a second floor flat in a custom-built block of flats, erected circa 1988, in the Leith Area of Edinburgh. The accommodation comprises a living room, two bedrooms, kitchen and bathroom.
7. The Tribunal noted that mould is evident on and around the windows in the living room and the rear left hand bedroom. The view of the Tribunal was that it is likely to be condensation due to inadequate balance of heating and ventilation, but the left hand side casement of the living room window and the window in the rear left hand side bedroom are out of alignment. There are visible gaps when the windows are in the closed position.
8. The storage heater in the hallway is not working. The storage heater in the living room is working.

9. There is a broken electrical socket in the living room.

Decision

10. Having considered carefully all the evidence before it, the Tribunal decided that the Landlords have failed to comply with the duties imposed by Section 14(1)(b) of the 2006 Act and the Tribunal decided to make a Repairing Standard Enforcement Order.

G Clark

Legal Member

24 August 2023
Date