

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 24 (1) of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22(1A) of the Act

Reference number: FTS/HPC/RT/22/1563

Mr Liam Slaven, 101 Kilbrennan Drive, Falkirk, FK1 4SQ (“The Tenant”)

Ms Lia Marshall, 158 Windsor Road, Falkirk, FK1 5DF (“The Landlord”)

Re: Property at 101 Kilbrennan Drive, Falkirk, FK1 4SQ registered in the Registers of Scotland under Title Number STG68123 (“the Property”)

Tribunal Members – Karen Moore (Legal Member) and Kingsley Bruce (Ordinary Member)

Decision of the Tribunal

The Tribunal determined that the Landlord has complied with the duty imposed on her by Section 14(1)(b) of the Act and that the Property meets the Repairing Standard in respect of Section 13(1)(c) of the Act

Background

1. By application received between 25 and 26 May 2022 (“the Application”), Falkirk Council as third party applicant in terms of Section 22(1A) of the Act applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in respect that the Property does not meet the Repairing Standard in respect of Section 13(1) (c) of the Act. The Application was accepted by the Tribunal and an Inspection and Hearing were fixed for 18 August 2022 and intimated to the Parties.
2. Falkirk Council intimated to the Tribunal that it was withdrawing from the Application. By Minute dated 16 August 2022, the Tribunal continued the Application in terms of Schedule 2 Paragraph 7(3) of the Act.

Inspections and Hearing

3. The Inspection fixed for 18 August 2022 at 10.00 did not take place in full as the Tribunal could not access the Property. The Tribunal made a visual inspection of the outside of the Property and noted that there is a gas supply to the Property. The Hearing fixed for 18 August 2022 at 14.00 by telephone conference call took place. However, the Landlord did not take part and was not represented. The Tribunal adjourned the Hearing to a later date and fix another date for an Inspection.
4. A second Inspection and Hearing were fixed for 27 October 2022 at 10.00 and 14.00 respectively and intimated to the Landlord. The Inspection did not take place as the Tenant declined to allow the Tribunal members to enter the Property. The Hearing on 27 October 2022 at 14.00 by telephone conference call took place. However, the Landlord did not take part and was not represented. The Tribunal adjourned the Hearing to a later date and issued a Direction ordering the Landlord to submit the regulatory certification, and, if necessary, fix another Inspection. The Landlord submitted a Gas Safety Certificate and submitted an EICR. However, the EICR as submitted was not in a correct format and was not signed off by a a SELECT, NAPIT or NICEIC electrician as required by the the Scottish Government statutory guidance on electrical installations and appliances in private rented property.
5. A third Inspection and Hearing were fixed for 5 May 2023 at 10.00 and 14.00 respectively and intimated to the Landlord.
6. The Inspection took place on 5 may at 10.00 in the presence of the Tenant. The Tribunal was satisfied that there are interlinked mains-powered smoke alarms or tamper proof long-life lithium battery alarms, a heat alarm and a carbon monoxide detector installed in the Property.
7. The Hearing took place in the Glasgow Tribunal Centre at 14.00. The Landlord was present and unrepresented. The Tribunal explained that, although the Tribunal had inspected the Property and was satisfied that there are interlinked mains-powered smoke alarms or tamper proof long-life lithium battery alarms, a heat alarm and a carbon monoxide detector installed in the Property, a fully compliant EICR is required. The Landlord stated that she was unaware that the EICR was not compliant and undertook to obtain a compliant EICR without delay. The Tribunal adjourned the Hearing for the Landlord to submit a fully compliant EICR.
8. By email dated 16 May 2023, the Landlord to submit a fully compliant EICR.

Decision of the Tribunal and reasons for the Decision.

9. Having been satisfied that the the regulatory certification for the Property are in place and are compliant, the Tribunal determined that the Landlord has complied with the duty imposed on her by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) and that the Property meets the Repairing Standard in respect of Section 13(1) (c) of the Act.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

Signed

K Moore, Chairperson

31 May 2023