



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

Statement of Decision under Section 24 of the Housing (Scotland) Act 2006

Reference number: FTS/HPC/RP/20/0516

Re: Property at Flat 17, Schaw House, 69 Shaw Drive, Bearsden, Glasgow (“the Property”)

The Parties:

Mrs Karen Cooper, formerly residing at Flat 17 Schaw House, 69 Shaw Drive, Bearsden, Glasgow, G61 3AT (“the Tenant”)

Mr Michael Cannon, residing at 23 Drymen Road, Bearsden, Glasgow, G61 2RD (“the Landlord”)

Tribunal Members: Ruth O’Hare, Legal Member and Lorraine Charles, Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) determined to make no order and dismissed the application.

Background

- 1 By application dated 14 February 2020 the Tenant made an application to the Tribunal seeking a determination that the Landlord had failed to comply with his duties under the Repairing Standard. In particular, the Tenant cited allegations regarding dampness in the property, problems with the boiler which had not been inspected, issues with the heating system and the electrical installations and a lack of working smoke alarms and carbon monoxide detectors within the property.
- 2 The Tribunal subsequently received confirmation from the Tenant that the tenancy of the house has been terminated, and accordingly, under Schedule 2 Paragraph 7(1) of the Housing (Scotland) Act 2006 (“The Act”), the Tenant was treated as having withdrawn the application under Section 22(1) of the Act. By Minute of Continuation dated 19 November 2020 the Tribunal determined to continue with the application, in terms of Schedule 2, Paragraph 7(3) of the Act. The Tribunal considered that if the position as set out in the former Tenant’s application was accurate, there would be a significant health and safety risk to any future occupant of the property and

therefore the Tribunal did not consider it was in a position to abandon the application on that basis. noted the nature of the disrepair alleged by the former Tenant.

- 3 Due to the restrictions imposed by the Covid-19 pandemic the Tribunal was unable to carry out an inspection of the property. The Tribunal therefore considered whether it could make a determination of the application in the absence of an inspection. By Notice of Direction dated 19 November 2020 the Tribunal requested that the Landlord provide the following information to assist with its consideration of the application:-
 1. An up to date Gas Safety Certificate for the property confirming that the boiler, heating system and any other gas installations in the property are in a reasonable state of repair and safe working order;
 2. An up to date Electrical Installation Condition Report confirming that the electrical installations within the property are in a reasonable state of repair and safe working order;
 3. A report from a qualified damp specialist confirming that the Property is wind, watertight and free from damp; and
 4. Evidence in the form of photographs, invoices or other proof of installation to confirm the presence of working smoke alarms and a carbon monoxide detector within the Property.
- 4 By emails dated 30 March 2021 the Landlord, Mr Michael Cannon, provided screenshots of an electrical installation condition report, a gas safety certificate and photographs of the property. He advised that there was no requirement for a damp specialist report as there was no evidence of damp in the first floor property. He further advised that he had returned to live there following the sale of another house.
- 5 A Case Management Discussion took place on 31st March 2021 by teleconference. Mr Cannon was present. The Tribunal noted the information provided by Mr Cannon. In response to questions from the Tribunal Mr Cannon confirmed that he was now residing in the property and had no intention to relet it.

Reasons for Decision

- 6 The Tribunal was satisfied that the Landlord was no longer engaged in the letting of the property, having accepted Mr Cannon's statement that he had returned to live in the property as his permanent home. The Tribunal further noted the documentation provided by Mr Cannon which the Tribunal accepted as evidence that the property is in a habitable condition. On that basis the Tribunal had sufficient information in order to make a determination of the application and did not require to undertake an inspection of the property.

7 The Tribunal therefore determined to make no order and dismissed the application..

O'Hare

Chairperson of the tribunal
Dated: 31/03/2021