

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: FTS/HPC/RP/23/1459

Title No: GLA109493

Flat 2-1, 43 Keir Street, Glasgow G41 2LA ("The Property")

The Parties:-

Ms Gayle McNicol, Flat 2-1, 43 Keir Street, Glasgow G41 2LA ("the Tenant")

Mr Pappu Singh and Ms Gunwant Kaur, 43 Traquair Drive, Cardonald, Glasgow G52 2TB ("the Landlords")

Tribunal Members: R Mill (Legal Member) and L Charles (Ordinary Member)

Decision

The property does not meet the repairing standard. The landlord has not complied with the duty imposed by section 14(1) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary.

Background

1. The tenant applied to the tribunal for a determination of whether the landlords have failed to comply with the duties imposed by section 14(1) of the Act in respect of the property. The written lease names the first-named landlord as the tenant. He is the registered owner of the property. The second-named landlord is his wife who has managed the property.
2. In the written application the tenant stated that the landlords had failed to comply with their duty to ensure that the property meets the repairing standard according to section 13(1)(a), (c), (d), (f), (g) and (h), which set out the following obligations:-

- whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
- whether the installations in the house for the supply of water, gas and electricity and for sanitation, space heating or heating water are in a reasonable state of repair and in proper working order.
- whether any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
- whether the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
- whether the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
- whether the house does not meet the tolerable standard.

Inspection

3. The tribunal inspected the property on 3 October 2023 at 10.00 am. The tenant permitted entry to the tribunal. Her mother and daughter were also in the property. The landlords were also in attendance.

Hearing

4. Following the inspection of the property, the tribunal convened a hearing on at 11.30 am at Glasgow Tribunals Centre, 20 York Street, Glasgow. The tenant attended the hearing along with her mother for some support. She was represented by Sophie Berry of Govan Law Centre. The landlords did not attend. They had advised the tribunal members at the inspection that they were unable to do so due to work commitments.

Background and summary of issues

5. The issues to be determined by the tribunal are whether or not the property meets the repairing standard to the extent put at issue within the application, as at the date of the hearing.
6. The written application raised a number of concerns. These were set out in some detail in the paper apart to the Form A.
7. On 16 December 2014 the parties entered into a short assured tenancy. The applicant resides in the property with her two children.

8. The applicant complained that she has never been provided with copies of an Electrical Installation Condition Report (EICR), Energy Performance Certificate (EPC) or Gas Safety Certificate, despite requests being made. She complained that the property did not have satisfactory installations for detecting and for giving warning of fire or suspected fire or carbon monoxide. She also complained that the heating system was defective.
9. The respondents' interests have been represented by Guardian Lettings. A number of tradesmen have been instructed on behalf of the respondents from time to time in order to seek to remedy the complaints which have been made by and on behalf of the tenant.
10. The applicant's interests have been represented by Govan Law Centre. They commissioned an independent report by Architect Professor Tim Sharpe. His report is dated 24 October 2021. This highlights particular criticisms with the central heating system. Whilst it is acknowledged that the gas boiler itself is relatively new and has been serviced to an adequate standard with a corresponding Gas Safety Certificate, he concluded that the pipework and radiators are 'legacy elements' and do not work effectively.

Relevant documentation submitted in advance of inspection and hearing

11. An Electrical Installation Condition Report (EICR) dated 16 January 2023 has been provided. This certifies that the electrical condition of the property is satisfactory and there are no C1 or C2 issues of concern.
12. A Gas Safety Certificate dated 15 September 2023 has been produced (earlier Gas Safety Certificates for other periods were also produced). This confirms that the gas boiler and the hob are working and safe.

Findings in Fact

13. The tribunal makes the following findings in fact (as at 3 October 2023):
 - a. The title to the subjects known as Flat 2-1, 43 Keir Street, Glasgow G41 2LA is held by Mr Pappu Singh in the Land Register for Glasgow GLA109493.
 - b. The property is a mid-terraced top floor three bedroom flat within a traditional stone built tenement. The property is comprised of a hallway, living room, kitchen, three bedrooms and bathroom.
 - c. Fixed heating provision is by means of a gas central heating system with radiators to all rooms located on internal walls. The gas boiler is modern and new but the corresponding pipework and radiators are aged.

- d. The heated towel rail in the bathroom and the radiator in bedroom 1 do not heat which is a matter of agreement between the parties.
 - e. There are smoke, heat and carbon monoxide detectors in the property which are compliant with the Scottish Government Statutory Guidance.
 - f. There is a recently installed electrical consumer unit in the property.
14. Reference is made to the schedule of photographs comprised within the inspection report prepared by the tribunal and attached to this decision.

Reasons for Decision

15. The tribunal determined the application having regard to the bundle of papers which were made available, together with their observations at the inspection and submissions heard at the hearing.
16. The tribunal is only able to consider the complaints which formed part of the intimated application and had an obligation to consider the complaints as at the date of the inspection and hearing on 3 October 2023.
17. The tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material with which to reach a fair determination of the reference.
18. The scope of the complaints made by the tenant had much reduced by the time of the tribunal's inspection and hearing. This was accepted by the tenant herself and by her representative. It was evident that the landlords do care about the property and have taken active steps to seek to make good repairs brought to their attention.
19. Ultimately the only outstanding issue of any concern which may impact upon the repairing standard was the two failed radiators in the bathroom and bedroom 1. It is acknowledged openly by the landlords that these require further investigation and repair. The terms of the RSEO will ensure that such matters are remedied.
20. It will not be necessary for the tribunal to physically reinspect the property, nor have any further hearing, subject to documentary evidence from a suitably qualified central heating engineer to confirm that necessary work has been undertaken and the scope of the works specified in the RSEO have been satisfactorily completed.

21. The tribunal determined to make a Repairing Standard Enforcement Order (RSEO). The tribunal determined that the landlord be provided with a period of 4 weeks to carry out these works which is reasonable given the nature and extent of the works.

Decision

22. The tribunal, having made enquiries for the purposes of determining whether the landlords have complied with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, determined that the landlord has failed to comply with his duty imposed by Section 14(1)(b) of the Act in respect that the property does meet the repairing standard.

Right of Appeal

23. 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.
24. 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.

In witness whereof these presents type written on this and the preceding pages are executed by R George Mill, solicitor,
, legal member of the tribunal at Edinburgh on 9 October 2023 before this witness:-