



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

Statement of Decision under section 24(1) of the Housing (Scotland) Act 2006 ("the 2006 Act")

PROPERTY AT 4/L 17 Crichton Street, Dundee DD1 3AR ("the Property")

Case Reference FTS/HPC/RP/21/2313

- Miss Rachel Talbert ("The Tenant and Applicant")
- Mr Frazer Thomson, Ms Jane-Evelyn Helen Thompson (The Landlord and Respondent")

The Tribunal comprised:-

Ms Gabrielle Miller - Legal Member
Mr David Godfrey - Ordinary Member

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) in relation to the Property, determined that the Landlord had complied with the duty imposed by Section 14(1)(b) of the Act.

Background

1. By application dated 21st October 2021 and documents received between 22nd September 2021 and 5th November 2021, the Tenant and Applicant applied to the Housing and Property Chamber for a determination as to whether the Landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant and Applicant stated that she considered that the Landlord had failed to comply with their duty to ensure that the Property met the Repairing Standard in that the Property is not wind and watertight and in all other respects reasonably fit for human habitation; the structure and the exterior of the

house(including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order; that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable sate of repair and in proper working order; that any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and that the Property does not meet the tolerable standard. In particular, the complaints consisted of:-

- a) The roof was in a poor state of repair causing leaks into the Property;
and
 - b) The knob on the oven is broken meaning the grill cannot be used.
3. A date was set for both the inspection of 17th January 2021 at 10.30am and a hearing on 24th January 2021 at 10.00am by teleconferencing. All parties and their representatives were notified.
 4. On 17th December 2021, the Applicant's representative, who is also a tenant, emailed to advise that there were workmen on the roof. Neither tenant had been notified of this.
 5. On 22nd December 2021, the Applicant's representative emailed to advise again that the workmen were on the roof and that there were two further leaks. On the same date the Respondent's representative emailed a submission stating that the work was being undertaken.
 6. On 30th December 2021, the Applicant's representative emailed with a submission.

The Inspection

7. The Tribunal attended the Property on the morning of 17th January 2022. Both the Applicant and the Applicant's representative were present. Mr Robert Gray attended from Sandstone Properties, who are the Respondent's letting agent. It was a clear dry day.
8. The Property is an attic floor flat which forms part of a traditional mid terraced tenement block, four storey and attic in height situated in the centre of Dundee. It has dormer windows to the front and rear. At the rear of the Property there remained some scaffolding. The accommodation within the Property was unknown though the Tribunal had cause to be in the kitchen, hall and living room.
9. The Property was occupied by the Applicant and her representative. They had recently returned to the Property. The Applicant's representative noted to the Tribunal that the knob on the cooker had been fixed to their satisfaction and no longer required to be part of the application.
10. The kitchen was inspected first. The ceiling had been painted on the morning of the inspection. It was still wet which cause the damp readings to reflect the wet paint. The ceiling felt dry to touch other than where the paint was still wet. As a

result of the wet paint it is impossible to tell if there is any dampness in the ceiling from an ongoing leak.

11. The living room was inspected next. There were clear signs of staining to the ceiling at the dormer window. The damp readings were not, however, significant. There was no evidence of the leak being an ongoing issue
12. During the inspection photographs were taken by the Ordinary Member. The schedule of photographs was distributed to all parties on or around 18th January 2022.
13. The inspection was concluded. The Tribunal noted that the hearing would be in one week by teleconferencing as already intimated.

The Hearing

14. A hearing was held on 24th January 2022 at 10.00 am by teleconferencing. The Applicant was present and was represented by Ms Ciara McIntosh, her joint tenant. The Respondents were not present but were represented by Ms Diane Simpson and Ms Lillian Napier of Sandstone Properties.
15. The Applicant's representative stated that she and the Applicant had returned to the Property but were again in alternative accommodation. They considered the Property too cold to remain in. The Tribunal noted that this did not appear to be directly connected to the roof as the roof had been repaired. The Respondent requires an opportunity to address the issue. However, the Applicant and the joint tenant have the right to raise another application should this not resolve matters if they believe that the Repairing Standard has not been met. They had not seen any further signs of leaks. The living room ceiling still requires to be plastered and painted.
16. Ms Simpson stated that there had been poor communication between her letting agency and the tenants. The person who was dealing with their account has now left the letting agency. However, all of the owners of the flats in the block had a legal right to source quotes for the roof. The first quote had been for a completely new roof. The subsequent quote was for repairs. Ms Simpson noted that the living room had still to be plastered and repaired. She had already paid the workman for this and would ensure that he attended the Property to complete the work as instructed. She did not know that the Property was so cold. She took an undertaking to look into this.

Summary of the issues

17. The issue to be determined is:-
 - a) Whether the roof was in a poor state of repair causing leaks into the kitchen and living room.

Findings of fact

18. Having considered all the evidence, the Tribunal found the following facts to be established:-

- a) The tenancy commenced on 22nd July 2021.
- b) The Applicant has not left the Property by ending the tenancy.
- c) The roof had been repaired which had stopped the leaks to the kitchen and living room.

Reasons for the decision

19. The Tribunal determined the application having regard to the terms of the application, the written representations received prior to the hearing, the findings of their inspection and the evidence of the Applicant and the Respondent's letting agent.

20. The Tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the application.

21. The Tribunal was satisfied that all the points raised in the application had been dealt with by the Landlord and that there were no outstanding issues. The Tribunal was satisfied that the Repairing Standard was met and that no further orders were necessary.

Decision

- (a) The Tribunal accordingly determined that the Landlord had complied with the duty imposed by Section 14(1)(b) of the Act.
- (b) The Tribunal did not need to issue any further orders.
- (c) The Tribunal did not need to take any further action.
- (d) The decision of the Tribunal was unanimous.

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.

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.

G Miller, Chairperson and Legal Member
24th January 2022