

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**First-tier tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")**

### **STATEMENT OF DECISION OF THE TRIBUNAL UNDER SECTION 24(1) OF THE HOUSING (SCOTLAND) ACT 2006**

**In connection with**

**Property at Flat 3, 48 Broughton Road, Edinburgh EH7 4EE (hereinafter referred to as "the House")**

**Stuart Petrie, residing formerly at the House (hereinafter referred to as "the Tenant")**

**John Wright, Wright Letting, 45a Roman Road, Bearsden, Glasgow G61 2QP (hereinafter referred to as "the Landlord")**

**Chamber Ref: FTS/HPC/RP/16/1017**

### **DECISION**

The Tribunal having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter "the Act") in relation to the House, and taking account of the evidence led on behalf of the Landlord at the inspection and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had not failed to comply with the duty imposed by section 14(1)(b) of the Act.

### **Background**

By application dated 6 December 2016 (hereinafter referred to as "the Application") the Tenant applied to the Tribunal for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and, in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*"...(c) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.*

*(d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order..."*

The Tenant complained that the gas fire and boiler had been damaged by flood and had not been replaced.

By letter of 20 December 2016, the President of the Tribunal intimated a decision to refer the application under section 23(1) of the Act for determination.

The Tribunal comprised the following members:

John McHugh, Chairperson

Debbie Scott, Ordinary (Surveyor) Member.

The Tribunal served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

Having been informed that the Tenant had vacated the House, the Tribunal elected to continue with the Application and a Minute of Continuation was issued on 10 January 2017 all in terms of Paragraph 7 of Schedule 2 to the Act.

A hearing and inspection were fixed for 3 February 2017.

The Tribunal inspected the House on 3 February 2017. The Tenant was neither present nor represented, no longer being the tenant of the House. The Landlord was present.

Following the inspection, the Tribunal held a hearing at George House, Edinburgh. The Tribunal considered the written evidence submitted by the parties. Again, the Tenant was neither present nor represented at the hearing. The Landlord, having made representations at the inspection agreed with the Tribunal that he would not attend the hearing.

### **Submissions at the Hearing**

There were no submissions. The Landlord explained at the inspection that the central heating boiler had been replaced and produced paperwork in support of this. He could not produce a Landlords Gas Safety Certificate but indicated that he would provide one as soon as possible. He indicated that the gas fire had been removed.

## **Summary of the Issues**

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

## **Findings in Fact**

The Tribunal confined its inspection to the items of complaint detailed within the Application.

The Tribunal made the following findings in fact:

- 1 The House is a ground floor flat in a traditional tenement building.
- 2 The Landlord and the Tenant entered into a Tenancy Agreement in respect of the House on 19 and 22 May 2014.
- 3 The Landlord was recorded on the Lease as John Wright.
- 4 John Stewart Wright is the registered owner of the House.
- 5 The Tenant took possession of the House from 25 May 2014.
- 6 The Tenant ceased to occupy the House from on or around January 2017.
- 7 The provisions of Chapter 4 of Part I of the Act apply to the tenancy.
- 8 The Tenant notified the Landlord of the defects in the House which are now the subject of the Application in email correspondence during July 2016.
- 9 The inspection on 3 February 2017 revealed:
  - a. The House was generally in a good standard of repair.
  - b. A new boiler had been installed and appeared to be functioning well.
  - c. The gas fire had been removed.

A schedule of photographs taken at the inspection is attached to this Decision.

## **Reasons for the Decision**

A new boiler had been installed and the Landlord produced paperwork in respect of this. The boiler seemed to be working appropriately. The living room was warm during the inspection. The Landlord did not have a current Landlords Gas Safety Certificate but undertook to obtain and produce one to the Tribunal. A Certificate dated 9 February 2017 was subsequently produced. This confirmed the boiler to be operating satisfactorily. The gas fire has been removed but there appears to be no need for a new one to be installed given that the central heating appears to be operating adequately.

### The Repairing Standard

The Tribunal considers that there is no breach of the repairing standard. Accordingly, no Repairing Standard Enforcement Order should be made.

## **Observations**

It was noted that the carbon monoxide detector in the living room is not fixed to the wall and it is recommended that this should be attended to.

It also appeared that the arrangements for fire detection may not meet the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires and it is recommended that the Landlord should make arrangements to address this.

The Landlords Gas Safety Certificate produced has identified problems with the gas hob and it is recommended that the Landlord addresses these.

## **Decision**

The Tribunal, considering the terms of section 13(3) of the Act, determined that the Landlord had not failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision of the Tribunal was unanimous.

## **Right of Appeal**

**A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

### **Effect of section 63**

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

J McHugh

John M McHugh  
Chairperson

Date: 28 February 2017