

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

# **Housing and Property Chamber**

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



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

**Chamber Ref: FTS/HPC/RP/17/0163**

**Property at 11B Logie Crescent, Perth PH1 2ER  
("The Property")**

**The Parties:-**

**Laura Paterson, formerly of 11B Logie Crescent, Perth PH1 2ER  
("the Former Tenant")**

**Ian Routledge, 40 Rose Crescent, Perth PH1 1NT  
("the Landlord")**

### **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 house concerned, and taking account of the written representations of the Former Tenant and the Landlord and the evidence led by the Landlord at the hearing, determined that the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Act.**

**The Tribunal consisted of:**

**Rory A.B. Cowan – Legal Member**

**S Hesp – Surveyor/Ordinary Member**

### **Background**

- 1. By application received on 25<sup>th</sup> April 2017 the Former Tenant applied to the First-tier Tribunal: Housing and Property Chamber (the Tribunal) for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").**

2. In the application the Former Tenant detailed a number of alleged deficiencies with the Property that she stated failed to meet the repairing standard, some of which did not form part of the formal notification to the Landlord. The Tribunal therefore could only consider matters contained in the application and that had been notified to the Landlord. In particular, the Former Tenant stated that she considered that the Landlord had failed to ensure that:-

- (a) the Property is wind and water tight and in all other respects reasonably fit for human habitation,**
- (b) the structure and exterior of the house (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order,**
- (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, and**
- (d) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.**

3. By letter dated 22<sup>nd</sup> May 2017 the President of the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal.
4. The tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Former Tenant.
5. Following service of the Notice of Referral, by email of 7<sup>th</sup> June 2017 the Former Tenant declined to make further written representations to the tribunal. On 6<sup>th</sup> June 2017, the Landlord submitted written representations to the tribunal.
6. By the email dated 7<sup>th</sup> June 2017, the Former Tenant intimated that she had vacated the Property by providing her new address. Under schedule 7(1) of the Act, the Former Tenant is therefore treated as having abandoned the application.
7. By minute of continuation dated 13<sup>th</sup> June 2017, the tribunal decided to continue to determine the application.
8. The tribunal inspected the Property on the morning of 29<sup>th</sup> June 2017. The Landlord was present during the inspection. The Former Tenant was not present at the inspection.
9. Following the inspection of the Property, the tribunal held a hearing at North Inch Community Campus, Gowands Terrace, Perth PH1 5BF. The Landlord was in attendance. The Former Tenant did not attend.
10. The Landlord submitted as follows:

## **Dampness**

- a) That the Property had been visited by Environmental Health officers of Perth and Kinross Council on three separate occasions at the instance of the Former Tenant.
- b) That any dampness was caused as a result of the Former Tenant's lifestyle and a failure to adequately ventilate the Property. In particular, that the Former Tenant regularly used an open "chip pan" and failed to open the kitchen windows. That after the Former Tenant had vacated, the kitchen windows were "thick with grease" from lack of ventilation.
- c) That the Former Tenant had stored damp clothes on boxes down one wall in the living room and that because she smoked "weed" within the Property she would not open windows.
- d) The Landlord produced various photographs to demonstrate the effect OF THE Former Tenant's living conditions on the Property.
- e) That all windows that were openable were in proper working order and fitted with trickle vents.
- f) The Landlord's written representations included a specialist damp investigation report from KR Building Preservation of 5 Friarton House, Friarton Road, Perth PH2 8BB dated 26<sup>th</sup> May 2017, which reported no evidence of dampness being present on inspection by them.

## **Radiators**

- g) That all radiators within the Property were the ones present when the Former Tenant was in occupation. That the radiators were in proper working order and this had been demonstrated at the inspection.
- h) That the Property had a card meter and that the Tenant had not put money into it and therefore the heating was not used as frequently as it should have been.

## **Gas Boiler**

- i) That there had been two faults with the gas boiler during the Former Tenant's tenancy at the Property. That on each occasion he had responded promptly and repairs had been carried out within a reasonable period of time. The first fault was as a result of a faulty pressure switch which was diagnosed within 24 hours of the fault being reported and thereafter repaired two days later after ordering a replacement part. The second fault was attributed to a faulty control board that was diagnosed "the next day" from a complaint by the Former Tenant, but the repair took 7 days on this occasion due to a wrong part being sent initially.
- j) That the boiler has been in a proper working order since and that it had been demonstrated as working at inspection along with the hot water.

### **Carbon Monoxide Detector**

- k) That one had been fitted to the kitchen (where the boiler was located), but he did not know when it had been fitted as he had not been in the Property for some time due to the breakdown of his relationship with the Former Tenant.

### **Guttering**

- l) That, despite the guttering being common property of the four proprietors within the block that the Property is situated, he had commissioned repairs. These had been carried out in June 2017 the week before the date of the inspection. An invoice dated 23<sup>rd</sup> June 2017 from P&S Services for work carried out to the guttering was produced to the tribunal. The Landlord indicated that he was not happy with one of the gutter joints in that there was a slight drip from that joint, but that P&S Services were due to attend the Property on 30<sup>th</sup> June 2017 to re-seal that joint.

### **Toilet Flush**

- m) That there had been an issue with the mechanism when the Former Tenant had moved in, but that the mechanism had been replaced "about two weeks" before the tribunal's inspection.

The Landlord further stated that the Property had been inspected by representatives of Perth and Kinross Council for suitability for inclusion in their Bond Scheme and that it had passed and a new tenant had been allocated to it.

### **Summary of the issues**

11. The issues to be determined are whether:

- a) the Property is wind and water tight and in all other respects reasonably fit for human habitation,
- b) the structure and exterior of the Property (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order,
- c) the installations in the Property 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, and
- d) The Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

### **Findings of fact**

12. The tribunal finds the following facts to be established:-

- The tenancy was a short-assured tenancy that commenced on or around 23<sup>rd</sup> February 2012 and ended on or around 7<sup>th</sup> June 2017.
- The Property is a former local authority ground floor flat. It was constructed in the late 1950s or early 1960s with concrete rendered walls and a concrete tiled roof. The Property has UPVC double glazing throughout. All windows were fitted with trickle vents. The accommodation comprises of 2 bedrooms, 1 bathroom, a living room and separate kitchen with all rooms accessed off the hallway.
- The Property is served by gas central heating with a gas combi-boiler and radiators in each room.
- The boiler and radiators were all in a reasonable state of repair and in proper working order.
- The Property has cast iron rain water goods including gutters and down pipes which are in a reasonable state of repair and proper working order. The leaking joint is very minor and has no material impact on the Property or its condition.
- That the Property had recently been repainted and cleaned throughout.
- That damp meter readings taken in all apartments showed no evidence of penetrating or rising damp.
- There was no evidence of mould growth within the Property.
- Any previous reported condensation or dampness within the Property would have been as a result of the Former Tenant failing to adequately heat and ventilate the Property.
- That the Property has been fitted with a Carbon Monoxide detector within the kitchen where the gas boiler is located.
- That the toilet within the bathroom is in a reasonable state of repair and in proper working order.

### **Reasons for the decision**

13. Given the tribunal's findings on inspection and taking into account the application form, written submissions from the Landlord as well as his submissions at the hearing, the tribunal was satisfied that the Property is wind and water tight and in all other respects reasonably fit for human habitation for the following reason:
  - By using a damp meter and taking readings from each apartment within the Property the tribunal could find no evidence of any penetrating or rising damp.

14. The tribunal was also satisfied that the structure and exterior of the Property (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order for the following reasons:

- The guttering to the rear of the Property showed no evidence of defects and appeared to be working properly; and
- There was a very minor leak and one of the gutter joints at the front of the Property, but this had no material effect on the condition of the Property.

15. The tribunal was also satisfied that the installations within the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order. For the following reasons:

- At inspection the boiler was demonstrated to be working properly;
- All radiators within the Property were shown to be working and were hot on inspection;
- The hot water supply was shown to be working properly and provided adequate hot water for the Property; and
- The toilet within the bathroom was demonstrated to be working properly.

16. The tribunal was satisfied that the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health for the following reason:

- The Property has a carbon monoxide detector within the kitchen where the gas boiler is located. It was demonstrated to be working at the time of inspection.

### **Decision**

17. The tribunal accordingly determined that the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Act.

18. The tribunal therefore declined to make a Repairing Standard Enforcement Order (RSEO) under section 24(1).

19. The decision of the tribunal was unanimous.

20. The Ordinary Surveyor Member of the tribunal took several photographs which form the schedule attached to this decision.

### **Observations**

21. Whilst not part of the application and as such do not form part of the reasons for this decision, it was observed as follows:

- That the extractor fan within the bathroom of the Property, whilst shown to be in working order, has cabling that was loose and not fixed to the wall and should be looked at by an electrician to ensure that it has been safely installed.

### **Right of Appeal**

22. 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.

23. 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.

**R Cowan**

Signed

Date

.....11<sup>th</sup> July 2017.....

Chairperson

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### Schedule of Photographs of 11B Logie Crescent, Perth PH1 2ER

All photographs were taken during inspection on 29 June 2017



Front elevation



Rear elevation





Damp meter reading: front bedroom



Damp meter reading: above bathroom window



Extractor fan – bathroom



Smoke detector – living room



Smoke detector – hallway



Carbon monoxide detector – kitchen



Gas boiler - kitchen