

Housing and Property Chamber
First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 24(1) of the Housing (Scotland) Act 2006

HOUSE AT 24 Tuke Street, Dunfermline, Fife, KY12 0PP

Case Reference FTS/HPC/RP/20/1531

Mrs Linda MacLeod, formerly 24 Tuke Street, Dunfermline, Fife, KY12 0PP (“The Former Tenant” and “Applicant”)

Ms Evelyn Campbell, 26 Carnock Road, Dunfermline, KY12 9NT (“The Landlord”)

Tribunal Members – Martin McAllister (Legal Member) and Mark Andrew (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) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the House, determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act and therefore that no Repairing Standard Enforcement Order requires to be made.

Background

1. By application received by the Tribunal on 17th July 2020, the Former Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland (“The Tribunal”) for determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 (“the 2006 Act”). The application is in terms of Section 22(1) of the 2006 Act.
2. The Tribunal received confirmation from the Tenant that the tenancy of the house has been terminated, and accordingly, under Schedule 2 Paragraph 7(1) of the 2006 Act, the Tenant is to be treated as having withdrawn the application under Section 22(1) of the 2006 Act. The Tribunal decided that the application should be determined in terms of Schedule 2 Paragraph 7(3) of the Act and issued a Minute of Continuation on 9th June 2010.

3. The application stated that the House did not meet the repairing standard set out in Section 13 of the 2006 Act. It states that the House is not wind and watertight and in all other respects reasonably fit for human habitation, that the structure of the House (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order and that the House does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
4. The application made specific reference to dampness and mould throughout the Property, a malfunctioning lock on the front door, absence of smoke and heat detectors, blown double glazing unit, non functioning extractor fan and absence of an Electrical Installation Condition Report, Gas Safety Certificate and Energy Performance Certificate.

The Inspection

5. Members of the Tribunal inspected the House on 10th June 2021. The Landlord was present together with the new tenant, Mrs McCann. A schedule of photographs taken at the Inspection is attached to this Decision.
6. No damp readings were recorded in the house. There was evidence of a little mould in the bathroom.
7. A replacement front door had been fitted and its lock was functioning.
8. Heat and smoke detectors were noted.
9. A blown double glazed unit was noted.
10. An electrical extractor fan in the kitchen was functioning.

Certificates

11. Subsequent to the Inspection, the Landlord submitted an Energy Performance Certificate dated 22nd January 2019, An Electrical Installation Condition Report dated 7th January 2020 and a Gas Safety Certificate dated 16th November 2020.

The Hearing

12. A Hearing was conducted by audio conference on 18th June 2021. The Landlord participated.
13. The Landlord said that any issues which the Applicant may have had with the House was due to her lifestyle.

Findings and Reasons

14. The Tribunal considered the terms of the certificates submitted by the Landlord and found them to be in satisfactory terms.
15. The Tribunal was satisfied that, based on the Inspection, that there were no dampness issues in the House and that mould in the bathroom was within acceptable levels.
16. The Tribunal was satisfied with the detectors in the House and the extractor fan in the kitchen.
17. Although there was a faulty double glazing unit, it did not mean that the House failed to meet the repairing standard.
18. The Tribunal was satisfied that, in relation to the matters raised in the application and based on its Inspection of the Property and the certificates submitted to it, the House meets the repairing standard set out in Section 13 of the 2006 Act.

M McAllister

Martin J. McAllister,
Legal Member
18th June 2021