

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/24/3308

RE: Property known as 13 Borrowlea Road, Springkerse, Stirling, FK7 7SF

(“The Property”)

The Parties:-

**Miss Alana O'Hare, formerly 13 Borrowlea Road, Springkerse, Stirling, FK7 7SF
(“The Tenant”)**

**TPJ Properties Ltd, c/o Ochill Accounting Limited, Toadhill, Glendevon,
Dollar, Clackmannan, FK14 7JY (“The Landlords”)**

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 Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the written and verbal representations by the Landlords, Tenant and the inspection, 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

Sara Hesp – Surveyor/Ordinary Member

Background

- 1) By application dated 8 July 2024 (the Application) the Tenant applied to the First-tier tribunal: Housing and Property Chamber for a determination as to whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) and

Section 19B(4) of the Housing (Scotland) Act 2006 (“the 2006 Act”) and section 86(1)(ga) of the Housing (Scotland) Act 1987.

- 2) The Application stated that the Tenant considered the Landlords had failed to comply with their duty to ensure that the Property meets the repairing standard and in particular that the Application claimed that:-
 - a) The floorboards on the landlord at the top of the stairs were broken and therefore not in a reasonable state of repair;
 - b) The carpet on the stair and within the “master bedroom” were “dirty”;
 - c) The toilet within the bathroom for the Property did not flush and therefore was not in proper working order;
 - d) Electrical installations within the Property, being the ceiling spotlights lights within both bedrooms were not safe to use and were therefore not in a reasonable state of repair or in proper working order;
 - e) The window in the dining room of the Property was “not finished” and therefore was not in a reasonable state of repair;
 - f) The “kickboards” under the units in the kitchen within the Property “need fixing” and were therefore not in a reasonable state of repair;
 - g) The kitchen worktop behind the sink within the kitchen was “warped and unsealed” and therefore not in a reasonable state of repair; and
 - h) The back door of the Property was not wind and water tight.
- 3) By letter dated 5 August 2024 the President of the Housing and Property Chamber intimated a decision to refer the Application under Section 22 (1) of the 2006 Act to a tribunal.
- 4) The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the 2006 Act upon the Landlord and the Tenant.
- 5) Following service of the Notice of Referral, written representations were received from the Landlords and the Tenant.
- 6) By email dated 24 October 2024, the Tenant intimated that she had vacated the Property and had returned the keys to the Landlords. Under schedule 7(1) of the Act, the Tenant is therefore treated as having abandoned the Application.
- 7) By minute of continuation dated 29 October 2024, the tribunal decided to continue to determine the Application.
- 8) The tribunal inspected the Property on the morning of 6 November 2024. The Landlords directors, Mr and Mrs Gray were present and provided access. As the Tenant is no longer a party to the Application, she was not present.

- 9) Following the inspection of the Property, the tribunal held a hearing on 6 November 2024 at Wallace House, Maxwell Place, Stirling FK8 1JU. Both Mr and Mrs Gray attended the hearing on behalf of the Landlords both.

The Hearing

- 10) On behalf of the Landlords, it was submitted as follows:

The Floorboards

That there had been a loose floorboard that had been fixed once access had been obtained to the Property.

The Carpets

The view of the tribunal was that this was not a matter for the Repairing Standard. In any event, the carpets were viewed and appeared to be in a reasonable condition and not dirty as suggested in the Application.

The Toilet

That there was no issue with the toilet as was demonstrated at inspection.

Bedroom Lights

That these were in working order, which was demonstrated at inspection. That the Tenant had covered the spotlights in the bedrooms with sellotape and paper and as a result the Landlords' electrician had removed the switch and replaced with a blanking plate to prevent a fire hazard. Following the Tenant leaving the Property the switch had been replaced and the light switches were operable (although one lightbulb needed replaced). Something that had been demonstrated at inspection. The Property also had a valid and in date Electrical Installation Condition Report (EICR).

Dining Room Window

That the dining room window had been competed, subject to minor redecoration being required.

Kickboards

These were in place and had been secured using the clips on the rear of same and that was all that had been required.

Kitchen Worktop

There was some expansion due to water at a joint and some cosmetic damage in terms of missing bits of the veneer at the edge next to the back door, but that it complied with the repairing standard. In any event, it was explained that as part of the ongoing renovations, the Landlords intended to replace same regardless.

The Back Door

That the back door was wind and watertight and in proper working order.

Summary of the Issues

- 11) The issues to be determined are whether:
- a) The Property is wind and watertight and in all other respects reasonably fit for human habitation.
 - b) The installations in the Property for the supply of electricity and for sanitation are in a reasonable state of repair and in proper working order and safe to use.
 - c) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

Findings in fact and law

- 12) The Tribunal finds the following facts to be established:-
- a) That there was a tenancy for the purposes of section 14(1) of the 2006 Act.
 - b) That the tenancy commenced on or around 1 June 2023 and ended on or around 24 October 2024.
 - c) That the Landlords are the heritable proprietors of the subjects at 13 Borrowlea Road, Springkerse, Stirling FK7 7SF and held the landlord's interest in the tenancy for same with the Tenant.
 - d) That the Property is a post-war mid-terraced 2 story 2 bedroomed dwelling house of brick construction with concrete render and a pitched tiled roof. Windows are double glazed UVPC modern replacements.
 - e) That the Property has a gas-fired central heating with the boiler located upstairs within a cupboard in the main bedroom.
 - f) The Property has a current Electrical Installation Condition Report.
 - g) That the lights and switches within both bedrooms are in proper working order and in a reasonable state of repair.
 - h) That the bedroom lights in both bedrooms had been covered with paper and sellotape by the Tenant.
 - i) That the floorboards on the landing at the top of the stairs are in a reasonable state of repair.

- j) That the toilet within the Property is in proper working order and in a reasonable state of repair.
- k) That window within the dining room was in a reasonable state of repair and wind and watertight.
- l) That the kitchen units including the kickboards and worktop were in a reasonable state of repair.
- m) The back door of the Property was wind and watertight and in proper working order.

Reasons for the decision

13) The Tribunal was satisfied that the installations in the Property for the supply of, electricity and for sanitation were in a reasonable state of repair and in a proper working order and are safe to use for the following reasons:

- a) There was an EICR for the Property.
- b) The lights and switches were demonstrated at inspection to be in proper working order.
- c) That the covering of the spotlights with paper and sellotape was carried out by the Tenant and not the Landlords and therefore excepted from the repairing standard (section 16(1)(b)(i) of the 2006 Act). The Tribunal accepted the Landlords' evidence on same in the absence of any alternative explanation or evidence.
- d) The toilet was demonstrated as being in proper working order at inspection.

13) The Tribunal was satisfied that the Property was wind and watertight and reasonably fit for human habitation:

- a) The back door for the Property was inspected and was wind and watertight.
- b) The dining room window was a replacement double glazed UVPC window that had been fitted and sealed appropriately within the window opening.

14) The Tribunal was satisfied that the kitchen units, the worktop and the floorboards at the top of the stairs were in a reasonable state of repair and in proper working order for the following reasons:

- a) The kickboards were demonstrated to be fitted with clips that were affixed to the legs of the kitchen units.
- b) The worktop, whilst showing some minor damage, was still in a reasonable condition commensurate with its age.

c) The floorboards at the top of the stairs all appeared to be fixed and secure at inspection and the Landlords confirmed they have been secured once access had been obtained.

Observations

15) Whilst there was no complaint regarding the carbon monoxide detector, it was noted that the carbon monoxide detector within the Property was not wall mounted and in the wrong place (sitting on a windowsill). It was noted that the Landlords representatives stated that the detector left within the Property was not one they had supplied and the one that they had supplied and had fitted to the wall they believed had been removed by the Tenant.

Decision

16) The Tribunal accordingly determined that the Landlord has not failed to comply with his duties imposed by Section 14 (1)(b) of the 2006 Act.

17) The Tribunal therefore declined to make a Repairing Standard Enforcement Order (RSEO) as required by section 24(1).

18) The decision of the tribunal was unanimous.

19) The Surveyor/Ordinary Member of the Tribunal took several photographs which form the schedule attached to this decision.

Right of Appeal

20) 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.

21) 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.

Signed

Rory Cowan- Chair Person

Date 12 November 2024.....