

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/18/0691

Title no: MID37971

114/8 Lauriston Place, Edinburgh EH3 9HX (“The Property”)

The Parties:-

Miss Mrinalini Jaisinghani, residing at 114/8 Lauriston Place, Edinburgh EH3 9HX (“the Tenant”)

Edinburgh Estates Limited, incorporated under the Companies Acts and having their registered office at 5 Alexandra Mansions, Chichele Road, London (“the Landlord”)

Tribunal Members: Richard Mill (Legal Member) and Andrew McFarlane (Ordinary Member)

Decision

The Property does meet the Repairing Standard. The Landlord has complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is not necessary.

Background

1. The Tenant’s representative lodged an application with the Tribunal complaining that the Property did not meet the repairing standard. The initial application form referred to issues in terms of Section 13(a), (d) and (e) of the Act only. Accordingly the issues put at issue in the application are:-

- Whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
- Whether any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

- Whether any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
2. Notices of Referral, Inspection and Hearing were issued to parties on 27 April 2018.

Inspection

3. The Tribunal inspected the property on 29 May 2018 at 10am. The Tenant was present and showed the Tribunal Members around the Property. Also present was the Tenant's representative, Anna Mencil, and representatives for the Landlord namely Mike Linn and Joe Millard from LinnMac letting agency who were joined by Stephen MacPherson, a tradesman.

Hearing

4. Following the inspection of the property, the Tribunal convened a hearing later the same day at 11.30 am within Room D8, George House, 126 George Street, Edinburgh EH2 4HH. The Tenant was unable to be present due to work commitments. She was represented by her representative, Anna Mencil. Mike Linn and Joe Millard from the Landlord's letting agency represented the Landlord.

Summary of Issues

5. The issues to be determined by the Tribunal are whether or not the property meets the repairing standard to the extent put at issue within the application, as at the date of the hearing.
6. The Tenant raised a number of complaints following the taking up of occupation of the Property. These were first raised with the Landlord's former letting agents. Correspondence had been issued on behalf of the Tenant by her representative. Thirteen items were raised altogether which are contained within a letter dated 19 February 2018 prepared by the Tenant's representative. Reference is made to that correspondence for the sake of brevity which is held to be incorporated herein without further repetition.
7. At the time of the Tribunal's inspection there were only two live issues outstanding. The Tenant accepted that all other matters had been resolved expeditiously by the Landlord's new letting agents who have recently taken over acting for the Landlord. The two issues were:-

- i. The Tenant complained about the opening and closing mechanism of the shower door.
- ii. The Tenant complained about bicycles being secured to the railings of the common stair.

Findings in Fact

8. The Tribunal makes the following findings in fact:-
 1. The Title to the subjects occupied by the Tenant is held by the Landlords whose interest is registered in Land Register, Title number MID37971 on 25 February 2003.
 2. The extent of the Property which is the subject of this Application is a top floor one bedroom flat within a traditional tenement in central Edinburgh.
 3. The parties entered into a Short Assured Tenancy for an initial period of 6 months commencing 12 September 2017. The lease was signed on behalf of the Landlord by their former agent D J Alexander. LinnMac Property have subsequently been appointed as the Landlord's agent.
 4. The Tribunal's inspection revealed:-
 - i. The Property is generally maintained to a high standard.
 - ii. The shower door complained of is a standard bi-folding door. When in the closed position it is watertight. The door is slightly stiff to open and close, but can be opened and closed without difficulty and is operable.
 - iii. There were three bicycles attached to the railings in the common stair at the foot of the stairwell. One appears abandoned, having no air in its tyres and being notably dusty. Despite their existence, entry through the common stair and movement up and down the stairs is effortless.
 5. Reference is made to the schedule of photographs taken at the time of the Tribunal's inspection which are attached herewith and referred to for their terms.

Reasons for Decision

9. The Tribunal determined the application having regard to the bundle of papers which were made available, together with their observations at

the inspection and the representations made to the Tribunal at the hearing.

10. The Tribunal was only able to consider the complaints which formed part of the intimated application and had an obligation to consider the complaints as at the date of the Hearing on 29 May 2018.
11. The Tribunal was satisfied having regard to all of the available evidence and having sufficient information and material with which to reach a fair determination of the reference.
12. The Tribunal did not find the shower door to be in such a condition that it could not be used safely for the purpose for which it is designed. Such fittings are notoriously troublesome and its presentation is rather typical and within acceptable parameters. The stiffness could not possibly prevent the Tenant using the shower or shower door for the purpose for which it is made available. It is fit for purpose.
13. The Tribunal did not observe any misuse of the common stair area, such as would give rise to an adverse enjoyment of the property by the Tenant, nor cause any particular hazard. The presence of bicycles in common stairs is commonplace. They are not flammable items. There are no regulations to prevent this. Entry through the common passage and up and down the common stairs remains effortless, even with the presence of the bicycles and such is the width of the stairs that two people abreast would manage such a journey without difficulty.
14. The Tribunal was impressed by the actions of the current letting agent, LinnMac, in their approach to matters since they have taken over acting for the Landlord. It is clear on the basis of written communications that they have taken active steps to seek to resolve the Tenant's complaints and this has almost exclusively been to her full satisfaction. It was indicated by those in attendance from LinnMac that should the condition of the shower door deteriorate in any way they will immediately seek to resolve the issue. Similarly they had conducted enquiries with Scottish Fire and Rescue in relation to the presence of the bicycles and did not receive any advice to the effect that such issues should be resolved in the interests of safety.
15. The Tenant's outstanding complaints do not have merit. The issues which she raises are not a breach of the Repairing Standard. Accordingly no Repairing Standard Enforcement Order is necessary.

Right of Appeal

16. 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.

17. 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.

In witness whereof these presents type written on this and the preceding page(s) are executed by Richard George Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the Tribunal at Edinburgh on 4 June 2018 before this witness:-

R Mill

_____ Legal Member
A Lindsay

_____ Witness

AMY LINDSAY Name

69-71 DALRY ROAD Address

EDINBURGH,

EH11 2AA



Property Address

114/8 Lauriston Place,
Edinburgh
EH3 9HX

06 JUN 2018

Case Reference

FTS HPC RP 18 0691

Schedule of Photographs taken during the inspection by tribunal members on 29th May 2018



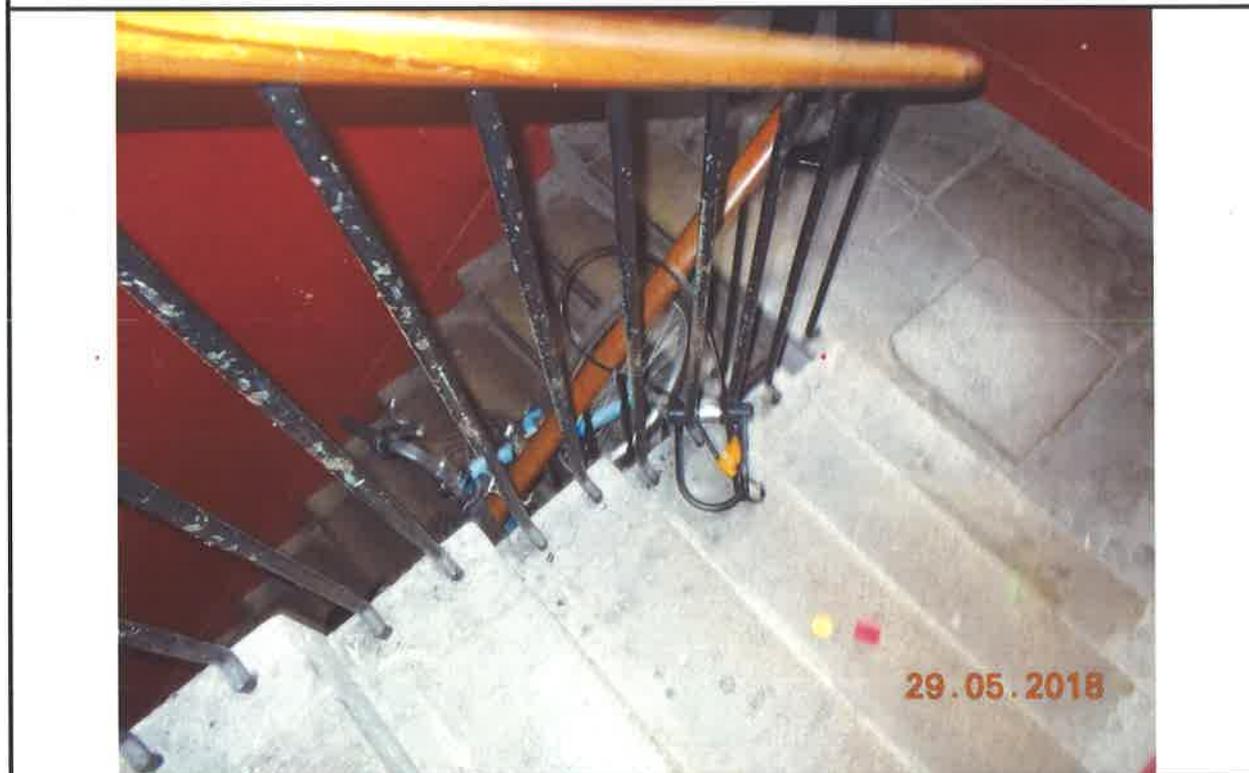
1. General view of Front Elevation to Block in which Property is located



2. Shower door (upper)



3. Shower door (lower)



4. Bicycle locks on railing to stair



5. Bicycles secured to railings to stair



6. Bicycles secured to railings to stair