

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 reference number: FTS/HPC/RT/19/2579

345 Glasgow Road, Longcroft, FK4 1QR (“ the property”)

The Parties:

Falkirk Council, Suite 1, The Forum, Callendar Business Park, Falkirk, FK1 1XR (“the Third Party”)

Tracey Sweeney, 345 Glasgow Road, Longcroft, FK4 1QR (“ the former Tenant”)

Stuart Buchanan, 8 Hillhead Avenue, Banknock, Falkirk, FK4 1JN (“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) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the property, determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.

The Tribunal comprised: -

Mrs Josephine Bonnar, Legal Member

Ms Carol Jones, Ordinary Member

lodged written representations. In these he stated that the former tenant and her family had vacated the property on 19 September 2019. He advised that the former tenant and her partner had formerly worked with him. They had moved into the property in June 2018 because they required to move urgently from their previous accommodation. They were aware that some repairs were needed but did not want to wait. Initially no rent was paid, and no tenancy agreement signed, but this was later rectified. The Landlord was busy and there was a delay in getting repairs addressed. In June 2019 he issued the former tenant with a notice to leave. His own accommodation had become too small following the birth of a second child and he wanted to move back to the property. Shortly thereafter he received notification from the Third Party of the repairs which are the basis of the application before the Tribunal. On 14 October 2019 the tribunal issued a direction requiring the Landlord to lodge an EICR and Gas Safety Report by 25 October 2019. No response was received.

5. The Tribunal inspected the property on 1 November 2019 at 11.30 am. The Landlord was present together with his partner, Amanda Newton. Mr Craig Beatt attended on behalf of the Third Party. Thereafter the tribunal held a hearing at STEP Stirling, Enterprise Park, Stirling. Mr Buchanan, Ms Newton and Mr Beatt attended.

The Inspection

6. At the time of the inspection the weather was cold and wet. The Tribunal inspected the property, which is a three apartment end terraced dwellinghouse located in Longcroft, Bonnybridge. The property was largely unfurnished and appeared unoccupied. The gas and electricity were switched off at the time of the inspection. Mr Buchanan showed the Tribunal a gas safety record and EICR and advised that copies would be provided at the hearing. The Tribunal noted the following; - (a) Living Room – no smoke detector, front door external surface cracked, damaged letterbox, seal defective at base and was difficult to lock and unlock, (b) Kitchen – not possible to check the pilot igniter due to lack of gas supply, Landlord confirmed that it does not work , (c) Hall – side door slightly loose, seal defective at base, (d) Bathroom and hall outside bathroom - new shower screen installed, floor under bath behind bath panel wet and black spot mould on wall, floor and wall outside bathroom wet with high damp meter readings, starting to rot and evidence of woodlice, new section of plasterboard on wall outside bathroom within fitted wardrobes, (e) Downstairs bedroom - patio doors could not be opened and no key in lock, damaged light fitting on wall, (d)

Upper Floor bedroom – replacement sections of plasterboard on wall to side of dormer window, moderate damp meter readings, (f) External – Loose and missing slates on front and rear pitches to roof, render on chimney damaged, leak from gutter and loose downpipe at side door on gable wall, gap in the mastic seal to front living room window. The Tribunal also noted that there were gate posts but no gate. The Tribunal did not observe any foliage in the gutter. During the inspection the Tribunal also noted that a new consumer unit has been installed in the living room, new lights have been fitted in the hall and bathroom and new vinyl flooring laid in the bathroom. There is a wall mounted carbon monoxide alarm in the kitchen and one ceiling mounted smoke alarm in the downstairs hall, this could not be tested as the electricity was turned off. A schedule of photographs taken at the inspection is attached to this decision.

The Hearing

7. At the hearing Mr Buchanan provided the Tribunal with an EICR dated 21 September 2019 and gas safety record completed by a gas safe registered engineer dated 2 August 2019. The former did not have the address of the subject property on the front page. The latter states that the gas appliances are safe to use but comments on the gas cooker stating “Sparker not working. Customer happy to use extra long lighting tool.”. He advised that the “customer” was the former tenant. He also advised that a holiday had caused the delay in submitting the documents required by the Tribunal’s direction. Mr Buchanan then advised the Tribunal that he carried out some repairs to the property in July 2019 as a result of a letter from the Third Party in June 2019 reporting a number of repairing standard issues. The letter from the Third Party was the first complaint he had received, and it arrived after he had issued the former tenant with a notice to leave. The repairs included the replacement of the fridge freezer plug socket, a new consumer unit, new light fittings in the hall and bathroom, replacement flooring in the bathroom, a new shower screen, and replacement plasterboard in the hall and upstairs bedroom. He explained that he plans to carry out extensive renovations to the property, now that it is vacant, before he and his family move back in, and therefore only carried out those works which he considered to be essential.
8. The Tribunal proceeded to discuss the repairs issues contained in the application and noted at the inspection. Mr Buchanan confirmed that he accepted that the following require to be addressed – the lack of smoke and heat detectors in the property, the damaged front

door, the ignition pilot on the cooker, investigation of possible leak from the shower, water damage to flooring and wall outside the bathroom, light fitting in the downstairs bedroom, water ingress into upstairs bedroom, slates on roof, render on chimney, leak from gutter/loose downpipe on gable wall and gap in the front window seal. With regard to the side door he accepted that the seals need replaced but disputed that the frame is loose. He also advised that although the shower should be investigated, he thinks that the water damage has been caused by the lack of a proper shower screen causing water to escape. He advised the Tribunal that there was a key provided for the patio doors. He does not know if the doors are currently locked or jammed. He also advised that the gate for the property was stolen before the former tenant moved in. He told her that he would get a replacement but didn't get around to doing so.

9. Mr Beatt advised the Tribunal that when he visited the property in connection with the application the patio doors were in use. The former tenant told him that she did not have a key, so the property was permanently insecure. He confirmed that he did not otherwise have anything to add to the information provided in the application and noted by the Tribunal at the inspection.
10. Mr Buchanan concluded his evidence by stating that he plans an extensive refurbishment of the property, beyond the repairs which have been identified as currently required. He expects this to take at least 6 months to complete. He also advised that he has no plans to re-let the property and confirmed that he intends to move back in once the works are completed. Mr Beatt confirmed that he had no objection to the Tribunal allowing a lengthy period for completion of the work, if a Repairing Standard Enforcement order is to be issued.

Findings in Fact

10. The property is a three apartment end terraced dwelling house located in Longcroft, Bonnybridge. It is currently unoccupied.
11. The former tenant vacated the property in September 2019
12. There are no smoke detectors in the living room and upstairs bedroom and no heat detector in the kitchen of the property.
13. The front door of the property is damaged and defective.
14. The ignition pilot on the gas cooker is defective.
15. The external gutter/downpipe at the side door is damaged and leaking.
16. The seal to the side entry door is damaged.

17. The patio doors in the downstairs bedroom cannot be opened.
18. The light fitting in the downstairs bedroom is damaged and defective.
19. There is damage to the ceiling in the upstairs bedroom as a result of water ingress.
20. There is water damage to flooring and walls in the bathroom and outside the bathroom in the hall and fitted wardrobes.
21. There are loose and missing slates on the roof of the property, loose flashing at the dormer window, the render on the chimney is damaged and the gutter/downpipe next to the side door are damaged and leaking.
22. There is a gap in the seal at the front living room window of the property.
23. The gate at the front of the property is missing.

Reason for decision

21. The Tribunal considered the issues of disrepair set out in the Application and noted at the inspection and the evidence led at the hearing.
22. Section 14(1) of the 2006 Act states "The landlord in a tenancy must ensure that the house meets the repairing standard – (a) at the start of the tenancy, and (b) at all times during the tenancy." In terms of Section 3 of the 2006 Act " The duty imposed by subsection (1)(b) applies only where – (a) the tenant notifies the landlord, or (b) the landlord otherwise becomes aware, that work requires to be carried out for the purposes of complying with it" The Tribunal is satisfied that the Third Party made the Landlord aware of the repairs issues at the property.
23. The Tribunal is satisfied that there has been a failure by the landlord to meet the repairing standard in relation to the following; - smoke and heat detectors, defective front door, ignition pilot on cooker, seal on side door, leak from the shower and resultant water damage to walls and floors, defective patio doors, bedroom light fitting, damage to roof, render on chimney and gutter, and gap in the windowsill join. These defects were all noted by the Tribunal at the inspection and accepted by the Landlord. The Tribunal also notes that the gate to the property has been missing since the tenants took entry and the Landlord undertook to replace same. The Tribunal is therefore satisfied that the absence of a gate also amounts to a breach of the

repairing standard. The Tribunal is satisfied that, although the side door to the property requires to be sealed, there is no evidence that the door itself is defective or the frame loose. The Tribunal also notes the EICR provided by the landlord is incomplete. Lastly the Tribunal saw no evidence of foliage in the gutter, although this might become evident when roof repairs are carried out.

24. The Tribunal is therefore satisfied that there has been a breach of the repairing standard in relation to sections 13(1)(a), (b), (d) (f) and (h) of the Act.

Decision

25. The Tribunal determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

26. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1)

27. The decision of the Tribunal is unanimous

Right of Appeal.

A Landlord, Tenant or Third-party applicant 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.

In terms of Section 63 of the Act, 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.

Josephine Bonnar

Signed....

..... 14 November 2019

Josephine Bonnar, Legal Member

Housing and Property Chamber
First-tier Tribunal for Scotland



Schedule of photographs taken during the inspection of 345 Glasgow Road, Longcroft
FK4 1QR by the First-tier Tribunal for Scotland (Housing and Property Chamber) on
Friday 1 November 2019

Reference Number : FTS/HPC/RT/19/2579



Front Elevation



Front door - internal letter box cover taped



Front door - external view - letter box cover missing



Front door - external surface cracked



Front door - external view - seal defective at base



Living Room - new consumer unit



Kitchen - Carbon Monoxide alarm



Side Door - External view



Side Door - Internal view



Side Door - seal defective at base



New light fitting - Hall adjoining bathroom



Hall adjoining bathroom - new section of plasterboard in fitted wardrobe at wall adjoining bathroom



Hall adjoining bathroom - floor wet, starting to rot/ several woodlice evident



Bathroom - floor under bath and plasterboard wall both wet and black spot mould on wall



Bathroom - new vinyl floor covering



Bathroom - plasterboard showing high damp meter readings



Bathroom - floor under bath wet



Bathroom - new shower screen



Bathroom - new light fitting



Ground floor bedroom - defective/broken light fitting



Ground floor bedroom - patio doors



Ground floor bedroom - patio door - no key



Upper floor bedroom - new sections of plasterboard to side of dormer window



Upper floor bedroom - repair ongoing around dormer window



Upper floor bedroom - moderate damp meter reading to base of wall at new section of plasterboard at side of dormer window



Ground floor hall - ceiling mounted smoke alarm



Rear Elevation



Roof - view of rear pitch showing loose slates and render spalling on chimney head



Gable Wall - loose/defective gutter/downpipe



Front garden - missing gate



Roof - view of front pitch showing loose slates and defective flashing at dormer window



Front elevation - showing gutter - no evidence from ground level of foliage in gutter



Front living room window - gap in mastic seal