

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/RT/21/0126

42 Dykehead Place, Dundee DD4 6TL (“the property”)

The Parties:-

**Dundee City Council, Private Sector Services Unit, 5 City Square,
Dundee DD1 3BA (“the Third Party Applicant”)**

**Ms Alison Williamson, 42 Dykehead Place, Dundee DD4 6TL (“the
Tenant”)**

**Mr Ghulam Qadar and Ms Zahida Qadar 367 Clepington Road, Dundee
DD3 8ED (“the Landlord”)**

Tribunal Members:

**Graham Harding (Legal Member)
Robert Buchan (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 had complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by both the Landlord and the Third Party Applicant at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 19 January 2021 the Third Party Applicant applied to the Housing and Property Chamber 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. The application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the property meets the

6. The Tribunal inspected the Property on the morning of 8 July 2021 the Landlord and Mr Young were present during the inspection. The Tenant, Ms Williamson remained in the garden of the property throughout the inspection along with the rest of her family. The Ordinary Member of the Tribunal took photographs of the property and prepared a report outlining what was found, which are attached as a schedule to this decision. The Schedule was intimated to the Landlord and Third Party Applicant in advance of the hearing.
7. Following the inspection of the Property the Tribunal held a hearing by teleconference on 15 July 2021 and heard from both the Landlord and Mr Young.

The Hearing

8. The Tribunal noted that the kitchen cupboards required attention and the Landlord agreed and confirmed he would arrange for a joiner to carry out repairs to the doors and underboard.
9. Mr Young advised the Tribunal that water was going into the cupboard under the sink. The Landlord said it would not be a problem to have this fixed. In response to a query from the Tribunal regarding damage to the kitchen floor from water from the sink and washing machine the Landlord advised that the floor was wood covered with plywood and not chipboard. He confirmed that he would provide a new chipboard base for the gas boiler cupboard. He said he would have the floor checked for damage. He also confirmed he would instruct a timber specialist to provide a report.
10. Mr Young expressed his concerns regarding the electric socket located under the sink. The Landlord indicated that he could have the socket disconnected as it had previously been connected to a waste disposal unit that was no longer in use. Mr Young acknowledged that if the socket was checked as part of an EICR and found to be satisfactory that would meet his concerns. The Landlord indicated that an EICR had been obtained about three years ago. The Tribunal suggested it may be appropriate to have an electrician check the property again.
11. The Landlord confirmed that the gas boiler had been repaired by a Bosch engineer a few weeks ago. He did not think he had an invoice for the repair. Mr Young confirmed that he was satisfied that the leak had been repaired.

12. The Landlord advised the Tribunal that his electrician had carried out some repairs at the property including repairing a socket. He said he would provide the Tribunal with a copy of the invoice detailing the work done.
13. The Tribunal noted that it was agreed that the bedroom radiator was now hung correctly. The Tribunal also noted that the Landlord agreed to provide a new shower curtain in the bathroom and that smoke detectors had been installed on each landing. Mr Young advised the Tribunal that the Landlord's electrician had pointed out that there was an issue with the wiring of the detectors and one was not working. The Landlord confirmed the electrician was going to look at this again. The Tribunal noted this would be covered by a new EICR being instructed. In the meantime, before making a decision the Tribunal directed the Landlord to provide copies of the current Gas Safety Certificate and Electrical Installation Condition Report as the photocopies before the Tribunal were not clear.

Summary of the issues

14. The issues to be determined are whether:-
 - (a) The installations in the house for the supply of water, gas and electricity and for sanitation and space heating are in a reasonable state of repair and in proper working order;
 - (b) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and
 - (c) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health

Findings in fact

15. Some of the kitchen cupboard doors do not close properly and some of the underboards (sometimes referred to as a kickboard) are missing.
16. The floor to the left of the kitchen sink is wet.
17. There are signs of water leaking in to the cupboard beneath the kitchen sink.
18. The floor of the gas boiler cupboard is rotten.
19. There is a combined hard-wired heat and carbon monoxide detector installed in the kitchen.
20. There is no shower screen in the bathroom.
21. There is an issue with regards to the wiring of the smoke detectors at the property.

22. The last EICR report is dated 27 September 2017.

Reasons for the decision

23. It was acknowledged by the Landlord that the Kitchen cupboard doors required to be rehung. If it is not possible to do this then the doors would require to be replaced.
24. The Landlord has said that he will arrange for a timber specialist to prepare a report in respect of the damp issues in the kitchen and it follows that any damage to the kitchen floor or rot arising from water leakage should be dealt with as suggested by the timber specialist.
25. Given the issues that have arisen with the electrical installations in the property and given that it is almost four years since the previous EICR the Tribunal considers that it is reasonable for the Landlord to provide a new EICR which will confirm that the electrical installations including the smoke heat and carbon monoxide detectors are in good order.
26. The Landlord has confirmed that he will provide the Tenant with a new shower screen or curtain and the Tribunal wish confirmation that this has been done.

Decision

27. The Tribunal accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
28. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
29. The decision of the tribunal was unanimous.

Right of Appeal

30. **A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

Effect of section 63

31. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

G Harding

Signed  Graham Harding Legal Member

Date 28 July 2021