

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/18/1899

**Flat 48 Lothian Court, 20 Lethington Place, Glasgow, G41 3BJ
("the Property")**

The Parties:-

**Miss Nicole Murdoch, formerly residing at the property
("the Tenant")**

**Mrs Christine Davies, Flat 7/1, 104 Lancefield Quay, Glasgow, G3 8HF
("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) in relation to the house concerned, determined that the Landlord had complied with the duty imposed by Section 14 (1)(b) of the Act.

The tribunal consisted of:-

Patricia Anne Pryce	-	Legal Member
Andrew Taylor	-	Ordinary Member (Surveyor)

Background

1. By application comprising documents received between 30 July and 9 August 2018, the Tenant applied to the First-tier Tribunal (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 by the Tenant stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the house meets the repairing standard and that the said failure was established as follows:-

- (a) "Shower needs new fuse.
- (b) Heating broken for four months.
- (c) No gas and electrical safety certificates provided."

The Tenant considered that the Landlord is in breach of her duty under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlords have failed to ensure:-

- (i) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
 - (ii) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
3. By Minute dated 14 August 2018 the Convener of the tribunal, with delegated powers under Section 96 of the Housing (Scotland) Act 2014 and Section 21(8A) of the Act, intimated a decision to refer the application under Section 23(1) of the Act to a tribunal. On the same date, the Convener issued a Minute of Continuation as the Tenant had submitted that she had now vacated the property and that the tenancy had come to an end.
 4. The tribunal served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlords, the Tenant's representative and the Tenant advising that the inspection and hearing would take place on 5 October 2018 at 10 am and 11.30 am respectively. The Landlord indicated that she would be abroad on that date and sought a postponement of the inspection and hearing. The tribunal granted this and a further inspection and hearing took place on 9 November 2018 at 10 am and 11.30 am respectively.

The Inspection

5. An inspection and hearing were arranged as noted above. The tribunal attended at the property. The Landlord was in attendance at the property along with her husband. No one else attended at the property. The tribunal noted the following at inspection:-
 - There were hard-wired and interlinked smoke detectors located in the hallway and the living room of the property.
 - The wall mounted storage heaters located in the living room and the bedroom were on and radiating a strong level of heat.
 - The shower in the bathroom was tested by the Ordinary Member and worked well.
 - The windows in the property were double glazed.

The schedule of photographs taken by the Ordinary Member of the tribunal at the inspection is attached to this decision.

The Hearing

6. No one attended the hearing. The tribunal proceeded to make a decision based on its findings at the inspection together with the application and the written submissions made by the Landlord which included an EICR and PAT Certificate.

Summary of the issues

7. The issue to be determined is whether the repairing standard has been met in light of what the tribunal viewed at the inspection.

Findings of fact

8. The tribunal finds the following facts to be established: -
 - The Tenant had complained about the state of the property since February 2018 and had advised the Landlords of the repairs issues from that time onwards.
 - The property is first floor flat located in a building constructed of a load bearing concrete frame with facing brick panels.
 - It comprises a hallway, open plan kitchen/living room area, one bedroom and a bathroom.
 - The rent for the property was £500 per calendar month.
 - The Tenant no longer resides in the property and a new Tenant moved into the property on 1 September 2018.
 - The heating functioned well within the property as did the shower.
 - The property was warm on entry to it.

Reasons for the decision

9. The tribunal noted that in terms of the present application the Tenant had first notified the Landlord of the repairs in February 2018. At the inspection, the Landlord advised that she could not attend the hearing. However, she submitted that the repairs complained about within the application had not been raised by the former Tenant until she wanted to leave without giving her two months' notice.

Given all of the circumstances, the tribunal is satisfied that: the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working as the heaters all function properly and the tribunal was provided with an EICR and PAT Certificate in respect of the house; any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order as the shower functions properly.

Decision

10. The tribunal accordingly determined that the Landlord had complied with the duty imposed by Section 14 (1)(b) of the Act.

11. The decision of the tribunal was unanimous.

Right of Appeal

12. 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.

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

P Pryce

Signed
Date

Legal Member
9 November 2018



Flat 48, Lothian Court, 20 Lethington Place, Glasgow, G41 3BJ
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Schedule of Photographs - Inspection Date – 9th November 2018
Weather – Overcast, light rain.



1. The property



2. Feature fire – living room



3. Storage heater – living room



4. Storage heater - bedroom



5. Bathroom extractor fan



6. Instantaneous shower - bathroom



7. Smoke alarm – living room



8. Window – living room