



Determination by First-tier Tribunal for Scotland (Housing and Property Chamber) statement of decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 24 (1) of the Housing (Scotland) Act 2006.

Chamber Ref: FTS/HPC/RP/19/3506

Re: Property at 7a Castlegreen Street, Dumbarton, G82 1HN (“the Property”)

Parties:

Mrs Helen McCallum, formerly residing at 7a Castlegreen Street, Dumbarton, G82 1HN (“the former Applicant”)

Mr William Becket, residing at 6 Castlegreen Gardens, Dumbarton, G82 5EX (“the Respondent”)

Tribunal Members:

Mr James Bauld (Legal Member)

Mr Nick Allan (Ordinary Member)

Background

1. By application dated 29 October 2019, the former Applicant made an application to the First-tier Tribunal (Housing and Property Chamber) indicating that they believed that the Respondent as landlord was failing to comply with the duties imposed upon him by section 14 (1) (b) of the Housing (Scotland) Act 2006 (hereinafter referred to as “the 2006 Act”).
2. After lodging the application, the former Applicant indicated to the Tribunal that she had vacated the property and had terminated the tenancy.
3. A Minute of Continuation was issued by the Tribunal dated 3 January 2020 indicating that the tenancy having been terminated the application is to be treated as having been withdrawn and the Tribunal will require to determine whether or not the application should be abandoned by the Tribunal. In terms

of the Minute of Continuation, the Tribunal determined that the application should proceed as the alleged repairs raised health and safety concerns. Accordingly, on 3 January 2020, the Tribunal directed that the application should proceed and appropriate notification of the application was sent to the Respondent by letter dated 14 January 2020 indicating that an inspection and hearing would take place on 21 February 2020.

4. In the application, the former Applicant claimed the property failed to meet the Repairing Standard in a variety of respects including the presence of dampness and mould within the property, a blockage of the drains in the bathroom, the boiler within the property not being in working order, the windows in the property not being wind and water tight and evidence of water being found behind the boiler.

Inspection & Hearing

5. The Tribunal members attended at the property on the morning of 21 February 2020. The landlord was present within the property and access was allowed to the Tribunal members. The property was a ground floor flat within a three storey tenement building. The building was constructed around 1890-1900 and was of sandstone construction with a slate roof. Internally the property comprised a hall, living room, two bedrooms, kitchen and bathroom.
6. During the inspection the Tribunal members could detect no evidence of dampness or mould within the property. They could detect no evidence of any blockage to the bath or drainage.
7. During the inspection, the Tribunal members noted that the boiler and the heating system seemed to be in working order and there was no evidence of any water being found underneath or near the boiler.
8. During the inspection, the Tribunal members noted that the windows to the property appeared to be wind and water tight. There was no evidence of any broken seal nor any evidence of water ingress.

9. After the inspection, the Tribunal members proceeded to the hearing venue in Glasgow and the hearing commenced at 11.30. The landlord attended the hearing.
 10. During the course of the hearing, the Tribunal indicated to the landlord the findings they had drawn from the inspection and indicated to the landlord that in the view of the Tribunal, the property did not fall short of the Repairing Standard as alleged in the application.
 11. The landlord advised the Tribunal that it was his position that the flat had never fallen short of the Repairing Standard. He accepted that at one point during the tenancy of the former tenant that there had been a blockage within the drainage system but that had been remedied immediately by him contacting an appropriate plumber. He indicated that the blockage had apparently been caused by baby wipes being flushed in the toilet. The landlord indicated that the former tenant had been the mother of his former partner and that he believed the complaint and application to the Tribunal had been motivated by his former partner rather than the tenant. The Tribunal was not able to take a view on the assertion by the landlord.
-

Decision

12. The Tribunal considered the evidence which had been obtained at both the inspection and the hearing. The Tribunal were satisfied that the property met the Repairing Standard on the date of the inspection and hearing and that any of the alleged faults contained within the application were no longer present, if they had ever been present.
13. Accordingly the Tribunal determined that they would make no order in terms of section 24 of the 2006 Act and that the application should be dismissed.

Right of Appeal

14. In terms of Section 46 of the Tribunal (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.

James Bauld

Legal Member/Chair

9 March 2020

Date