

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/22/2162

Title Number: STG 71541

22 Crichton drive, Grangemouth, FK3 9DF (“the property”)

Ms Laura Dewar, 8 Elizabeth Avenue, Grangemouth, FK3 9DE (“the Landlord”)

Falkirk Council - Private Sector Team, Suite 2, The Forum, Callendar Business Park, Falkirk, FK1 5XR (“the Third Party Applicant”)

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 complied with the duty imposed by Section 14(1)(b) of the Act.

The Tribunal comprised: -

Josephine Bonnar, Legal Member

Sara Hesp, Ordinary Member

Background

1. The Third Party lodged an application with the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) 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 Landlord had failed to comply with his duty to ensure that the house meets the repairing standard. The Third Party stated that the Landlord had failed to provide a valid electrical installation condition report (EICR) and evidence that interlinked smoke and heat detectors and a CO detector had been installed.
3. The First-tier Tribunal for Scotland served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act. The parties were notified that an inspection and hearing would take place on 6 October 2022.
4. The Landlord submitted an EICR and Fire Detection and Alarm System in dwellings installation certificate, both dated 26 July 2022. Following receipt of these reports the Third Party notified the Tribunal that they wished to withdraw the application.
5. The Tribunal noted that the EICR and alarm installation reports had not been issued by an electrician registered with one of the three recognised professional bodies. On 16 September 2022, the Tribunal decided to continue consideration of the application in terms of Schedule 2 Paragraph 7(3) of the 2006 Act. The Landlord was notified that the inspection and hearing would proceed.
6. The Landlord submitted a further EICR to the Tribunal dated 30 September 2022. The report was compiled by Stewart Electrical Ltd, a NICEIC registered company, and is in satisfactory terms. However, both this report and the gas safety certificate lodged with the application, indicated that a CO detector has not been installed at the property. Following receipt of the report the Tribunal determined that the inspection and hearing would be postponed. A direction was issued to the Landlord.
7. On 18 October 2022, the Landlord submitted a letter from Stewart Electrical Ltd. This states that a CO detector has been installed at the property near the boiler. A photograph of the CO detector and boiler were attached. The letter also states that smoke and heat detectors have been installed at the property, in the kitchen, upper and lower hall and living room. These are interlinked and in working order. Photographs of the smoke and heat detectors, showing their locations, were also attached

Findings in Fact

8. The Landlord has provided an EICR for the property dated 30 September 2022, from a NICEIC registered electrician.
15. A CO detector has been installed at the property, next to the boiler.

16. Interlinked smoke and heat detectors have been installed at the property in the kitchen, hall and living room.

Reason for decision

20. The Tribunal considered the issues of disrepair set out in the Application.

21. 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 notified the Landlord of the repair issues at the property.

22. In terms of Regulation 18 of the Tribunal Procedure Rules 2017, the Tribunal may determine an application without a hearing. The Tribunal may do so if, “(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and (ii) to do so will not be contrary to the interests of the parties.

23. The application before the Tribunal was submitted by the Third Party. The application indicated that the Tenant did not wish to be treated as a party to the application. On 9 August 2022, the Third Party notified the Tribunal that they wished to withdraw the application, having considered documentation lodged by the landlord. The Tribunal decided to continue with the application and issued a Minute of Continuation. However, the only remaining party to the application is the Landlord and the Third Party Applicant no longer disputes that the property meets the repairing standard.

24. The Tribunal notes that the only issues specified in the application were the failure by the Landlord to provide an EICR and evidence in relation to the installation of smoke, heat, and CO detectors. The Landlord has now provided evidence of the installation of these alarms, together with evidence that these have been installed in the correct locations and are in proper working order. The Landlord has also provided an EICR, from a NICEIC registered electrician, which is in satisfactory terms.

25. The Tribunal is satisfied that it can determine the application without a hearing. The Tribunal is also satisfied, based on the documents produced, that the Landlord has not failed to comply with the duties imposed by section 14(1)(b) of the 2006 Act.

Decision

26. The Tribunal determined that the Landlord has not failed to comply with the duty imposed by Section 14(1)(b) of the Act.

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, Legal Member

1 November 2022