

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**STATEMENT OF DECISION:** in terms of Section 24 (1) of the Housing (Scotland) Act 2006 ("the Act") in respect of an application under Section 22(1) of the Act

**Case Reference FTS/HPC/RP/22/2280**

**Property at 8 Sighthill Gardens, Edinburgh, EH11 4NN ("the Property")**

Mr Ewan Power residing at 83 Burnside Road, Gorebridge, EH23 4ET and Mr Robert Thomson residing at 6 Dundas Gardens, Gorebridge, EH23 4BB ("The Landlords")

Tribunal Members – K Moore (Legal Member) and A Murray (Ordinary Member)

**Decision**

The Tribunal dismissed the Application without Order.

**Background**

1. By application received between 11 July 2022 and 15 August 2022 ("the Application"), the Tenant's then representative applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on them by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1) (a), 13(1)(b), 13(1) (c), 13(1)(g) and 13(1) (h) of the Act. On 24 August 2022, a legal member of the Chamber with delegated powers of the Chamber President accepted the Application and an Inspection and Hearing were fixed for 3 November 2022 at 10.00 at the Property and at 14.00 by telephone conference call respectively.
2. The Application noted the following matters as defects at the Property:
  - i) The kitchen needs "redone" as the doors are hanging off and the seals are broken;
  - ii) The shower is leaking into the flooring due to seals being broken;
  - iii) The doors including the front door need replaced;
  - iv) The attic window needs replaced;
  - v) There is no carbon monoxide detector.
3. The Tenant's then representative advised the Tribunal that she had withdrawn from acting and the Tenant advised the Tribunal that she wished to withdraw the

Application. The Tribunal continued the Application of its own accord in terms of Schedule 2 to the Act.

### **Inspection and Hearing**

4. The Inspection scheduled for 3 November 2022 at 10.00 did not take place as the Tribunal could not gain access to the Property. The Hearing took place on that day at 14.00 by telephone conference call. The Tenant did not attend. The Landlords attended and took part.
5. The Landlords advised the Tribunal that they had had difficulties carrying out works at the Property due to the Tenant refusing access to tradesmen and stated that of the works complained of had now been completed. They stated that they had the statutory health and safety certificates and would lodge these with the Tribunal
6. The Tribunal, having heard the Landlords, agreed that the Hearing should be adjourned to a later date to allow the Landlords to lodge the health and safety certificates, and in particular, a current compliant Gas Safety Certificate and a current compliant Electrical Installation Condition Report (EICR).
7. Following the Hearing, the Landlords submitted a current compliant Gas Safety Certificate, an Energy Performance Certificate, a Legionella Certificate and a current compliant EICR.

### **Summary of the Issues**

8. The issues to be determined by the Tribunal are whether or not the Property meets the Repairing Standard in respect of Sections 13(1) (a), 13(1)(b), 13(1) (c),13(1)(g) and 13(1) (h) of the Act at the date of the Inspection and Hearing.

### **Findings of Fact**

9. Mr Ewan Power residing at 83 Burnside Road, Gorebridge, EH23 4ET and Mr Robert Thomson residing at 6 Dundas Gardens, Gorebridge, EH23 4BB are the Landlords. Susan Miller residing at the Property is the tenant of the Property in terms of a tenancy agreement between her and the Landlords.
10. The Property is an upper floor flat which forms part of a block of four flatted houses.
11. From the Landlords' evidence at the Hearing and the tenant's request to withdraw the Application and having no evidence to the contrary, the Tribunal found that the matters complained of in the Application had been dealt with satisfactorily.
12. From the documents submitted by the Landlords, the Tribunal found that the required health and safety certificates are in place in respect of the Property.

### **Decision of the tribunal and reasons for the decision.**

13. The Tribunal's decision is based on the Application, the Inspection and the Hearing and the documents lodged by the Landlords.
14. In respect of all of the complaints set out in the Application, the Tribunal found that at the date of the Inspection and Hearing the Landlords had not failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
15. Accordingly, the Tribunal dismissed the Application without Order.
16. The decision is unanimous.

### **Appeal**

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.

### **Effect of Section 63**

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.

Signed

K      Moore, Chairperson

Date 2 December 2022