

Housing and Property Chamber First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Section 24

Case Reference FTS/HPC/RT/18/0534

Miss Janice Mckendrick, Flat 4, Globe House, Ecclefechan, Lockerbie, DG11 3DF (“the Tenant”)

Mr Amir Rasool, Denebank, High Street, Ecclefechan, Lockerbie, DG 11 3DF (“the Landlord”)

Strategic Housing Services, Dumfries and Galloway Council, Council Offices, Buccleuch Street, Dumfries, DG1 2AD (“the Third Party Applicant”).

Flat 4, Globe House, Ecclefechan, Lockerbie, DG11 3DF, part of Title Number DMF16169 (“the Property”).

Tribunal Members: Martin McAllister (Legal Member) and Kingsley Bruce, surveyor, (Ordinary Member)

Background

1. By application received by the Tribunal on 9th March 2018, the Third Party Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (the 2006 Act). The application is in terms of Section 22 (1A) of the 2006 Act.
2. A repairing standard enforcement order was made on 7th June 2018.
3. This repairing standard enforcement order was varied to allow the Landlord more time to complete the works.
4. The Property was inspected by the ordinary member on 14th September 2018 and on 12th April 2019. On both occasions it was found that all the

works required by the repairing standard enforcement order had not been completed.

5. The Tribunal determined to hold a Hearing to consider whether or not to make a rent relief order under Section 27 of the 2006 Act.
6. On 15th July 2019 a Direction was made requiring the Landlord to submit written representations with regard to the Tribunal's consideration of making a rent relief order. No representations were received.

Hearing

A Hearing was held in Lochvale Community Centre, Dumfries on 3rd September 2019. The Landlord was present. Mr Adam Black of Dumfries and Galloway Council was present.

The purpose of the Hearing was explained to the parties.

The Landlord said that the Electrical Installation Condition Report (EICR) had been provided. He referred to the Fire Risk Assessment Report which had been prepared and which the Tribunal had. He said that the recommendations within the Report had been complied with. He said that portable heaters had been removed and that other works had been done. He said that the works recommended by the EICR had been carried out.

It was pointed out to the Landlord that no evidence had been produced to the Tribunal which evidenced that works had been done. The Landlord said that he would be happy for the members of the Tribunal to inspect the Property to satisfy themselves that works required by the repairing standard enforcement order had been completed.

Determination

The Tribunal considered that it would be premature to make a rent relief order if the works required by the repairing standard enforcement order had been completed. It considered that it would be appropriate to inspect the Property and to have a Hearing immediately following that. It considered that it would also be appropriate to have information from the Landlord prior to the Hearing setting out what work had been done and copies of receipts in respect of that work. The Tribunal considered it appropriate to make a Direction in respect of the provision of this information and also to vary the repairing standard enforcement order to extend the time for compliance with the repairing standard enforcement order.

A Hearing was arranged for 1st November 2019 and it was considered it appropriate that the variation of the repairing standard enforcement order should allow the period of time for compliance of the repairing standard enforcement order to be extended to that date. The Tribunal considered it appropriate for a fresh Electrical Installation Condition Report to be provided and that this should not contain any C3 level recommendations.

Reasons

The Tribunal accepted that it was entirely possible from what the Landlord said that works in respect of the requirements of the repairing standard enforcement order have been complied with notwithstanding that he had not provided the Tribunal with vouching for such works. The details of what the landlord said about some of the works which he said he had completed were such that the Tribunal accepted that some works required by the repairing standard enforcement order had been completed. It considered that, in the circumstances, it would not be just to make a rent relief order. It was considered important that the Landlord had no doubts about what was required from him by way of the provision by him of information to the Tribunal and that a Direction was appropriate.

The Tribunal accepted that progress had been made in respect of compliance with the repairing standard enforcement order and that it would therefore be appropriate for the terms of the repairing standard enforcement order to be varied.

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.

Martin Joseph McAllister,
Solicitor, legal member of
Tribunal.
5th September 2019