

Housing and Property Chamber First-tier Tribunal for Scotland



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

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.

Ref:- FTS/HPC/RP/17/0126

Re:- Property at Flat 3/1, 14 Cornwall Street, Glasgow, G41 1AQ ("**the property**")

Land Register Title No: GLA92360

The Parties:-

Mr Muhammad Tayyab residing at Flat 3/1, 14 Cornwall Street, Glasgow, G41 1AQ ("**the tenant**")

And

Mr Armit Kaushal c/o Thistle Property Services, 417 Paisley Road West, Glasgow, G51 1LS represented by his letting agent Mr Raj Rahman c/o Thistle Property Services, 417 Paisley Road West, Glasgow, G51 1LS ("**the landlord**")

Tribunal members

Mr James Bauld, Legal member
Mr Kingsley Bruce, Ordinary member

Background

1. By application dated 3rd April 2017, the tenant made application to the First-tier Tribunal (Housing and Property Chamber) indicating that he believed his landlord was failing to comply with the duty imposed by Section 14 (1)(d) of the Housing (Scotland) Act 2006 ("the 2006 Act").
2. By letters dated 21st April 2017, the Tribunal indicated to the parties that the application had been referred to a Tribunal and that a Hearing would take place on 24th May 2017 in Wellington House, Glasgow.
3. In the application, the tenant claimed that the property failed to meet the repairing standard in respect that there was no hot water in the shower in the bathroom and that the washing machine was not working.
4. Prior to the hearing on 24th May 2017, the tenant sent an email to the Tribunal office indicating that he had managed to fix the shower. He indicated that the washing machine had still not been fixed,

Inspection and Hearing

5. The Tribunal members attended at the property on 24th May 2017 to carry out the inspection. The tenant was present. Neither the landlord nor his letting agent were present at the inspection. The Tribunal members observed the washing machine. The tenant demonstrated to the Tribunal members that although there was power getting to the washing machine it was not functioning correctly. It simply did not work properly.
6. The Tribunal members thereafter convened at Wellington House for the Hearing. The tenant was in attendance at the Hearing. The landlord was also in attendance and was represented and assisted by his letting agent Mr Rahman.
7. The hearing then proceeded with the Tribunal members asking questions of the parties. It appeared to be accepted by all parties that the washing machine was not working. It was not in a reasonable state of repair. It was not in proper working order. Mr Rahman attempted to suggest that the reason the machine was not working was that the tenant had been using it in an improper fashion. He suggested that the washing machine was not capable of being used in respect of the number of persons occupying the flat. The tenant indicated that he occupied the flat with his wife and three children who were aged 8, 4 and 18 months. The Tribunal members pointed out to Mr Rahman that they had seen the washing machine during the inspection and that in their view the washing machine appeared to be faulty. It was not working properly. The Tribunal members indicated to Mr Rahman that they were unlikely to agree with him if he was suggesting that the washing machine was not in a proper state of repair because the tenant had failed to use the machine in a proper manner. The Tribunal members pointed out to Mr Rahman the statutory exception that existed in Section 16 (1)(b)(i) of the 2006 Act. There was thereafter a subsequent discussion between the other parties with regard to the washing machine and whether or not the landlord would agree to replace it or repair it. The Tribunal members noted that there had apparently been some discussion earlier in the year with regard to the washing machine being replaced but that the landlord or the agent had seemed to make this conditional upon the tenant agreeing to an uplift in rent. The Tribunal members pointed out to the parties that this was not a matter which could be determined by the Tribunal. The Tribunal would simply determine whether the washing machine was in a proper state of repair and in reasonable working order. The Tribunal members pointed out to the parties the powers which the Tribunal had to make various orders.
8. It then became clear that parties were agreeing that the landlord would carry out appropriate repairs to the machine or replace it. The Tribunal members then indicated to the parties that the Hearing would be concluded and that the Tribunal would subsequently issue a written decision. The Tribunal members indicated to the parties that if matters could be resolved quickly they could email the Tribunal office and confirm that the washing machine had been either repaired or replaced. If that was done the Tribunal would take the view that there was no breach of the repairing standard and no order would be made.
9. Subsequent to the Hearing, the Tribunal office has received emails from both Mr Rahman of Thistle Property Services and from Mr Tayyab the tenant. The emails from each party are dated 31st May 2017. In the email from the tenant he confirms that "my problem has been solved". In the email from the letting agent he confirms a "washing machine has been installed yesterday 30th May 2017".
10. The Tribunal are happy to accept the emails and evidence from the parties that the washing machine has now been either replaced or repaired and that there is no longer any breach of the repairing standard.
11. Accordingly, the Tribunal determined to make no order and has determined that there is no failure by the landlord to comply with the repairing standard as set out in the 2006 Act.
12. The decision of the Tribunal was unanimous.

Right of Appeal

13. 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 within 30 days of the date the decision was sent to them.
14. 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.

J Bauld

James Bauld, Chairperson
D Jones

.....
Date

4 July 2017

.....
Witness

.....
D DONNA JONES Full name

.....
SECRETARY Designation

.....
T.C Young, 7 West George Street Address
Glasgow, G2 1BA