

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

#### Determination under Section 24(1) of Housing (Scotland) Act 2006

**Chamber Ref:** FTS/HPC/RP/17/0176

**Title no:** MID22018

**Property address:** 82 Hermitage Park Grove, Edinburgh EH6 8DX ("The House")

**The Parties:-** Miss Claire Duchart, formerly residing at 82 Hermitage Park Grove, Edinburgh EH6 8DX ("the former tenant")

Mr Jamie Montgomery, 21 Pirniefield Grove, Edinburgh EH6 7QB ("the landlords")

The Tribunal comprised:-

Mr Mark Thorley – Legal Member

Mr Kingsley Bruce – Ordinary Member

#### Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') unanimously determined that the landlords have complied with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") and the Tribunal accordingly dismissed the application.

#### Background

1. By application received by the Housing and Property Chamber on 3 May 2017 the tenant applied for a determination of whether the landlords had failed to comply with the duties imposed on them by Section 14(1)(b) of the Act.
2. The application stated that the tenant considered the landlords had failed to comply with their duties to ensure that the house meets the repairing standard and in particular that the landlords have failed to ensure that –
  - a. The upstairs shower had leaked into the kitchen causing a crack and dip in the kitchen ceiling.

- b. The toilet on the upstairs floor when flushed leaks into the livingroom/kitchen resulting in a hole in the livingroom ceiling and dampness.
  - c. There was no fire detection equipment in the house.
  - d. There was no carbon monoxide detector.
3. The applicant has submitted documentation showing that there was a Short Assured Tenancy Agreement in relation to the property commencing on 17 June 2016 and terminating on 6 June 2017. The landlord's name is given as Mr Jamie Montgomery.
  4. Further documentation has been provided showing emails between the landlords' letting agent Zone Letting and the tenant highlighting a number of issues that require to be dealt with in terms of the house.
  5. Following upon the notice of referral written communication was received from the landlord.
  6. The tenant vacated the house on 1 June 2017.

#### The inspection

The Tribunal inspected the house on the morning of Friday 14 July 2017. It was noticeable that outside the house was a For Sale sign.

Entry to the property was effected by the landlord. It was clear that the property was not being tenanted. The property has been upgraded. It was evident that there were no cracks in the kitchen ceiling nor holes in the livingroom ceiling. Although there were no smoke detectors on view the landlord was able to show a picture taken of the smoke alarm when the tenant had been present. There was a carbon monoxide detector adjacent to the gas boiler.

During the inspection photographs were taken by the Ordinary Member and a Schedule of Photographs is attached to this decision.

The inspection was concluded and the Tribunal travelled to the venue for the hearing.

#### The hearing

The hearing took place at George House, Room D8, 126 George Street, Edinburgh. The landlord was not present. No other person was present.

#### Findings in fact

Having considered all the evidence the Tribunal found the following facts to be established:-

1. That the tenancy was a Short Assured Tenancy between the landlords and the former tenant. The tenancy commenced on 17 June 2016. The tenancy is now terminated. The house is currently vacant and for sale.
2. The property consists of a two storey terraced property. The accommodation consists of one bedroom, bathroom, livingroom and kitchen.
3. Works have recently been undertaken within the house. Although no smoke detectors were within the house a smoke detector had previously been fitted during the course of the tenancy. There was a carbon monoxide detector present.

#### Reasons for decision

In considering the repairing standard issue the Tribunal carried out an internal and external inspection of the property and in particular examined the specific defects highlighted by the tenant in the application. In addition the Tribunal considered the written documentation from the tenant and the documentation from the landlord.

In relation to the issues as identified the following was confirmed:-

1. The property has been subject to some works both in the kitchen and in the livingroom and there are no holes ceilings to any rooms.
2. There is a carbon monoxide detector next to the gas boiler.
3. Although no smoke detector is in the property it was established that there had previously been a smoke detector whilst the tenant had been present.
4. The property is in any event now not tenanted and on the market for sale.

#### Decision

The Tribunal, considering the terms of Section 13(3) of the Act, determine that the landlords have complied with the duties imposed by them under Section 14(1)(b) of the Act. Accordingly the Tribunal proceeded to dismiss the application.

The decision of the Tribunal is unanimous.

**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.**

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.

In witness whereof these presents type written on this and the three preceding page are executed by Mark Thorley, 51 South Bridge, Edinburgh EH1 1LL, chairperson of the Tribunal at Edinburgh on 25 July 2017 before this witness:-

A Gibson

M Thorley

\_\_\_\_\_ witness

\_\_\_\_\_ chairperson

ALISON GIBSON name in full

51 SOUTH BRIDGE Address

EDINBURGH EH1 1LL

# **SCHEDULE OF PHOTOGRAPHS**

**taken on 14 July 2017**

**82 Hermitage Park Grove, Edinburgh EH6  
8DX**

**Chamber Ref. FTS/HPC/RP/17/0176**

- 1. Bathroom**
- 2. Sink in bathroom**
- 3. Shower**
- 4. Boiler**
- 5. Carbon Monoxide Detector**

①

**Chamber Ref: FTS/HPC/RP/17/0176**

**Photograph of bathroom**



②

**Chamber Ref. FTS/HPC/RP/17/0176**

**Photograph of sink in bathroom**





③

**Chamber Ref. FTS/HPC/RP/17/0176**  
**Photograph of shower in bathroom**



④

**Chamber Ref. FTS/HPC/RP/17/0176**

**Photograph of boiler**



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# Chamber Ref. FTS/HPC/RP/17/0176

## Photograph of carbon monoxide detector

