

# Housing and Property Chamber First-tier Tribunal for Scotland

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## **Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

(Hereinafter referred to as “the tribunal”)

Under Section 24(1) of the Housing (Scotland) Act 2006 (“the Act”)

**Case Reference Number: FTS/HPC/RP/19/2059**

**Re: 0/2, 81 Miller Street, Glasgow G1 1EB (“the house”)**

**Land Register Title No: GLA15327**

### **The Parties:-**

**Miss Sonsoles Gonzalez Nieto, residing at the house (“the tenant”)**

**Mr Andy Nercessian / Maymask (171) Limited, Lady Stephenson Library,  
Welbeck Road, Newcastle upon Tyne, NE6 2PA**

**c/o Core Property Management, Core Property House, 4 Claremont Place,  
Glasgow G3 7YR  
 (“the landlord”)**

**Tribunal Members – Sarah O’Neill (Chairperson); Donald Wooley (Ordinary  
(Surveyor) Member)**

### **Decision**

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 house, and taking account of all the available evidence, determines that the landlord has not failed to comply with the duty imposed on it by Section 14 (1) (b) of the Act. The tribunal’s decision is unanimous.

## **Background**

1. By application received on 3 July 2019, the tenant applied to the tribunal for a determination that the landlord had failed to comply with its duties under Section 14(1) of the Act.
2. In her application, the tenant stated that she believed the landlord had failed to comply with its duty to ensure that the property met the repairing standard as set out in section 13(1) (c) (d) and (h) of the Act. Her application stated that the landlord had failed to ensure that:
  - the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order
  - any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order
  - the house does not meet the tolerable standard
3. The tenant made only one complaint in her application: that the bathroom sink had had no water flow since 2017. She said that the landlord's letting agency had fixed it on a number of occasions, but that each time the repair had lasted only a few days.
4. On 16 July 2019, a notice of acceptance of the application was issued by a Convener with delegated powers of the Chamber President under section 96 of the Housing (Scotland). On 14 August 2019, the tribunal administration issued a notice of referral and hearing to both parties, advising that an inspection and hearing would be held on 18 September 2019, and requesting written representations by 4 September 2019. Written representations were received from the tenant on 2 and 9 September 2019, and from Core Property Management on behalf of the landlord on 4 September 2019.

## **The inspection**

5. The tribunal inspected the house on the morning of 18 September 2019. The weather conditions at the time of the tribunal's inspection were dry and overcast. The tenant was present at the inspection. The landlord was not present or represented. Photographs were taken during the inspection, and these are attached as a schedule to this decision.

## **The house**

6. The house is a raised ground floor, self-contained, converted flat within a four-storey building known as Canada Court located within the Merchant City area of

Glasgow city centre. Following its re-development and conversion, the building and in particular its frontage, retained many of its original features. The flat is accessed via a communal entrance shared with what appears to be 31 other occupiers. The main structure, as viewed from the public road is of traditional sandstone design and the roof, not clearly visible from street level, has been designed to incorporate the top floor accommodation.

7. The accommodation comprises an entrance hall, living room / bedroom studio, kitchenette and bathroom which is fitted with bath / shower attachment, wc and wash hand basin.

### **The hearing**

8. Following the inspection, the tribunal held a hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The tenant represented herself and gave evidence on her own behalf. The landlord was represented by Mr Craig McColl, Director, Core Property Management.

### **The evidence**

9. The evidence before the tribunal consisted of:
  - The application form completed by the tenant.
  - Registers Direct copy of Land Register title GLA15327, which confirmed that the house is owned by Maymask (171) Limited.
  - Short assured tenancy agreement between Andy Nercessian and the tenant in respect of the house dated 17 February 2015 and signed by the parties on 18 February 2015.
  - Copies of email correspondence between the tenant and Core Property Management regarding the bathroom sink repair dated between 21 September 2017 and 28 June 2019.
  - The written representations received from the tenant on 2 and 9 September 2019.
  - The written representations received from Core Property Management on behalf of the landlord on 4 September 2019.
  - The tribunal's inspection of the house.
  - The oral representations of the parties at the hearing.

### **Summary of the issues**

10. The issue to be determined was whether the house meets the repairing standard as set out in Section 13 of the Act, and whether the landlord has complied with the duty imposed on it by section 14 (1) (b).

## Findings of fact

11. The tribunal made the following findings in fact:

- The house is owned by Maymask (171) Limited, a company which has its registered office at Lady Stephenson Library, Welbeck Road, Newcastle upon Tyne, NE6 2PA. Maymask (171) Limited is the registered landlord for the house.
- The landlord named on the tenancy agreement between the parties is Andy Nercessian. A Companies House online search shows that Mr Nercessian is a Director of Maymask (171) Limited.
- The tenant entered into a short-assured tenancy agreement with Mr Nercessian on 18 February 2019 to rent the house for a period of twelve months from that date, continuing on a month to month basis thereafter.
- The tenancy of the house is managed on behalf of the landlord by Core Property Management, Core Property House, 4 Claremont Place, Glasgow G3 7YR
- At its inspection, the tribunal carefully checked the bathroom sink/wash hand basin, which was the subject of the complaint. The tribunal observed the following:
  - i. Water to the wash hand basin is provided by a mixer tap with both hot and cold controls regulating the flow. During the inspection both the hot and cold control taps were tested and each was functioning satisfactorily producing an adequate flow of water.
  - ii. When compared with the water pressure at both the bath and the kitchen sink unit it was noticeably lower although it appeared satisfactory for the purpose of providing water to the wash hand basin.

## Reasons for decision

12. It was apparent from both the email correspondence and the oral representations of the tenant at the hearing that the problems with the water supply to and from the wash hand basin had been ongoing for some time. The tenant told the tribunal that the problems had started in the summer of 2017 and that there had been several attempts to repair it. Each time, the water had begun to flow again, but over the following 3-4 weeks, the flow had gradually lessened and had then stopped altogether.
13. The tenant was clearly very frustrated by the situation, and she had been inconvenienced over a period of two years as a result of being unable to use the bathroom sink. She had had to take time off work on a number of occasions, and there had also been an incident where a contractor had lost her keys. She had

eventually concluded that the matter would not be resolved, and she had therefore made the application to the tribunal. She acknowledged that the issue did seem to have been addressed by the most recent works which had been carried out at the end of August. Given past experience, however, she had decided to continue with the application, in case the problem recurred.

14. Mr McColl told the tribunal that he did not dispute anything which the tenant had said. He acknowledged her frustration and said that the landlord was keen to keep her as a tenant. He stressed that the landlord had always authorised the work and said that Core Property Management had tried to fix the problem every time the tenant had reported it. He said that it had however until recently proved very difficult to ascertain the source of the problem. Every time repairs had been attempted, the problem appeared to have been resolved, but the water flow had then been reduced again. The main problem had been that it was very difficult to work out how to turn off the water supply. He said that the letting agent had checked with both the property factor for the building and the concierge, and had obtained the plans, but the contractors had been unable to locate the stop cock.
15. Finally, on or around 29<sup>th</sup> August 2019, maintenance contractors known as 645FM Ltd, acting on the instructions of the letting agent, fitted a new tap to the wash hand basin, and a valve which allows the water supply to the sink to be isolated. This meant that in the event of any future problems, it would now be possible to control the water flow and resolve the problem quickly. The tenant confirmed that since the work had been done, which was now almost three weeks previously, there had been a constant water supply to the sink.
16. Mr McColl acknowledged that the matter had taken a long time to resolve but said that he believed it had now been resolved, although it was not possible to guarantee this completely. He reiterated that in the event of any further issues, it should now be now easier to address these straight away.
17. At its inspection, the tribunal observed that both the hot and cold control taps were functioning satisfactorily and were producing an adequate flow of water. While the flow was noticeably lower than that from the bath and the kitchen sink, it appeared satisfactory for the purpose of providing water to the wash hand basin. The tribunal therefore determines, at the time of its inspection, the bathroom sink/wash hand basin was in a satisfactory repair and proper working order.

### **Summary of decision**

18. On the basis of all the evidence before it, the tribunal found that at the time of its inspection, the bathroom sink/wash hand basin and in particular the water flow produced from it were in a reasonable state of repair and in proper working order.

The decision of the tribunal was therefore unanimous not to make a Repairing Standard Enforcement Order and to dismiss the tenant's application.

### **Rights of Appeal**

19. 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.
  
20. 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.

S O'Neil

Signed.....

Sarah O'Neill, Chairperson

Date 21/10/19.....

**Flat 0/2, 81 Miller Street , Glasgow, G1 1EB**

**Schedule of Photographs taken at the inspection on 18 September 2019**



**1&2:- Entrance & front elevation**



**3. Water flow from “cold tap” at bathroom wash hand basin**

*This is the schedule of photographs referred to  
in the foregoing decision dated 2 October 2014*  
S O'Neil



**4. Water flow from “hot tap” at bathroom wash hand basin.**