

Housing and Property Chamber First-tier Tribunal for Scotland



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

REPAIRING STANDARD ENFORCEMENT ORDER Ordered by the Tribunal

RE: All and Whole the dwelling house known as 15 Kerr Street, Glasgow G40 2QP registered in the Land Register and having Title No GLA190317 (hereinafter referred to as "the House")

The Parties:

Oliver Braid, residing at 15 Kerr Street, Glasgow G40 2QP (hereinafter referred to as "the Tenant")

Pirameena Saravanamuthu, Flat 128, James Riley Point, Carpenters Road, Stratford, London E15 2HZ (hereinafter referred to as "the Landlord")

Tribunal Ref: FTS/HPC/RP/19/0468

NOTICE TO PIRAMEENA SARAVANAMUTHU

WHEREAS in terms of their decision dated 7 May 2019 the Tribunal determined that the Landlord has failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that:

"(c) 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,

(d) 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 Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular, the Tribunal requires the Landlord to:

1 (a) Engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection, written report and service on the gas boiler, heating and hot water supply installation including all radiators, valves, thermostats, etc.; (b) Follow the recommendations of that report to ensure that the entire system is safe and in proper working order; (c) On completion of the works provide a copy of the written report exhibiting that the installation is in proper working order and a valid CP12 Gas Safety Certificate.

2 Repair or replace the front door bell and leave in proper working order.

3 Replace the glass pane in the kitchen pass door to match existing.

4 Repair or replace the cooker so that the grill unit functions correctly, has intact, useable runners, grill pan and proper seals.

The Tribunal orders that the works specified in this Order must be carried out and completed within 31 days from the date of service of this Notice.

A landlord, tenant or third party applicant aggrieved by the decision of the Tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are signed by John Miller McHugh, Chairperson of the Tribunal at Edinburgh on the Seventh day of May Two Thousand and Nineteen in the presence of the undernoted witness:

J McHugh

Chairperson
R McCunnell

Witness

ROBERT MCCUNNELL

Witness Address *65 HARVINGTON TERRACE
EDINBURGH
EH12 5TA*

Housing and Property Chamber First-tier Tribunal for Scotland



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

**STATEMENT OF DECISION OF THE TRIBUNAL
UNDER SECTION 24(1)
OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

Property at 15 Kerr Street, Glasgow G40 2QP (hereinafter referred to as "the House")

The Parties:

Oliver Braid, residing at 15 Kerr Street, Glasgow G40 2QP (hereinafter referred to as "the Tenant")

Pirameena Saravanamuthu, Flat 128, James Riley Point, Carpenters Road, Stratford, London E15 2HZ (hereinafter referred to as "the Landlord")

Tribunal Ref: FTS/HPC/RP/19/0468

DECISION

The Tribunal having made such enquiries as are 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 (hereinafter "the Act") in relation to the House, and taking account of the evidence led on behalf of the parties at the inspection and hearing and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 14 February 2019 (hereinafter referred to as "the Application") the Tenant applied to the Tribunal for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and, in

particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

"(c) 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.

(d) 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 Tenant complained that: the door bell was not working; some radiators did not warm up; there was a broken pane of glass in the kitchen door; the grill had a broken runner and no seal; the front garden gate did not close properly; the front grass was uncut and litter strewn; and the rear decking was slippery when wet.

By letter of 18 March 2019, the President of the Tribunal intimated a decision to refer the application under section 23(1) of the Act for determination.

The Tribunal comprised the following members:

John McHugh, Chairperson
Andrew Taylor, Ordinary (Surveyor) Member.

The Tribunal served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

A hearing and inspection were fixed for 29 April 2019.

The Tribunal inspected the House on 29 April 2019. The Tenant was present and accompanied by Ashley Russell (who had lived at the Property with the Tenant). The Landlord was present and accompanied by her mother. It transpired at the inspection that the Tenant had recently left the Property and it was agreed that he would remain outside the Property during the inspection.

Following the inspection, the Tribunal held a hearing at the Glasgow Tribunals Centre. The same parties were again present. The Tribunal considered the written evidence submitted by the parties and their submissions.

Submissions at the Hearing

The Landlord accepted that the position was that repairs would require to be carried out to the heating system; the door bell; the kitchen door glass pane and the grill.

The general position of the Landlord was that she had been willing to attend to any repairs required but that the Tenant had been unreasonably refusing access. The Tenant has the opposite view and considers that the Landlord did not attempt repairs

despite requests and that no reasonable notice had been given of visits to attempt remedial works.

As regards the front gate, the Landlord considers that it closes adequately and that the condition of the front garden is acceptable. The Landlord considers the decking to be in acceptable condition. The Tenant complains that the decking has been extremely slippery when wet and can be hazardous.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Tribunal confined its inspection to the items of complaint detailed within the Application.

The Tribunal made the following findings in fact:

- 1 The House is a three storey, modern townhouse.
- 2 The Tenant held a private residential tenancy of the House dated 27 October 2018.
- 3 The Landlord is the registered owner of the House.
- 4 The Tenant took possession of the House from 27 October 2018.
- 5 The tenancy ended on 26 April 2019.
- 6 The provisions of Chapter 4 of Part I of the Act apply to the tenancy.
- 7 The Tenant notified the Landlord of the defects in the House which are now the subject of the Application at the time of the handover of the House and in email correspondence to the Landlord's agent dated 30 November 2018.
- 8 The inspection on 29 April 2019 revealed:
 - a. The door bell does not work.
 - b. The boiler works but no heat was felt from the radiators.
 - c. A pane of glass was missing from the door between the kitchen and the hall.

- d. There is no functioning seal upon the grill and a runner is damaged.
- e. The front gate closes but part of the latch is bent, making it difficult to slide it across to secure the gate.
- f. The front grass is long and there are a few items of litter present.
- g. The rear decking was free of any moss or obvious problems. It was not found to be slippery in the dry conditions of the inspection.

A schedule of photographs taken at the inspection is attached to this Decision.

Reasons for the Decision

Door bell

The door bell was not working at all.

Heating

The boiler was switched on and hot water was being produced but no heat emanated from any of the radiators.

Kitchen Door

The door between the kitchen and hall has two glass windows within it. The pane of glass from one is absent.

Grill

The grill had a broken runner and no functioning seal; there was evidence of damage to the front of the cooker apparently from the escape of heat from the grill.

Front Garden Gate

The front garden gate closes completely but the latch is bent making it slightly difficult to slide across but this can be done and in any event the gate did close properly.

Front Garden Grass

The small area of front grass was in need of a cut and a few pieces of litter were observed.

Rear Decking

No defect was evident in the condition of the decking during the dry conditions of the inspection and it was not slippery under foot although the Landlord may wish to examine the decking herself during wet conditions to consider whether any treatment may be beneficial.

The Repairing Standard

The Tribunal considers that the condition of the door bell; heating; kitchen door and the grill constitute a breach of the repairing standard. Accordingly, a Repairing Standard Enforcement Order should be made in respect of them. The condition of the front garden, the garden gate and decking were consistent with the repairing standard.

Decision

The Tribunal, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision of the Tribunal was unanimous.

Right of Appeal

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

Effect of Section 63 of the 2006 Act

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

J McHugh

John M McHugh ~
Chairperson

Date: 7 May 2019



15 Kerr Street, Glasgow, G40 2QP
FTS/HPC/RP/19/0468
Schedule of Photographs - Inspection Date – 29th April 2019
Weather – Dry, overcast



1. The property



2. Kitchen door with missing glass pane



3. Grill with broken runner and missing seal



4. Rear decking



5. Rear decking



6. Entrance gate



7. Front garden



8. Front door bell



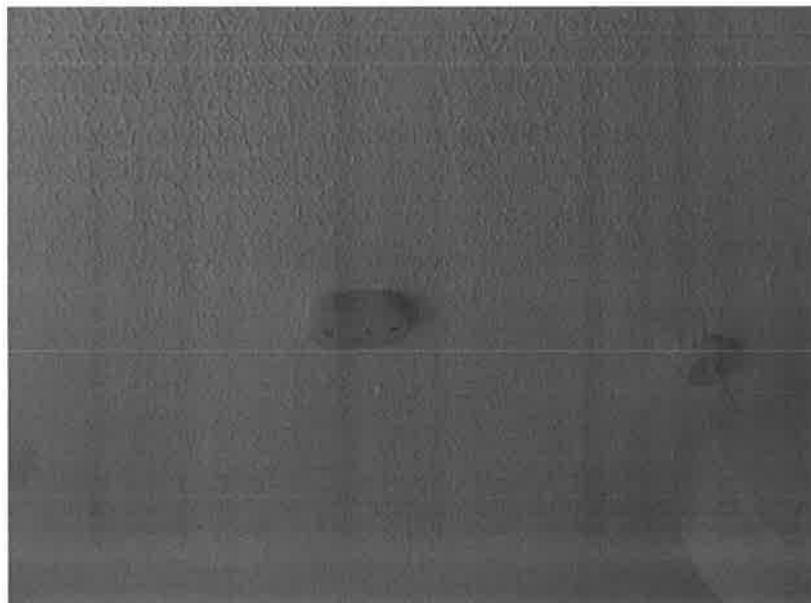
9. Top floor bedroom radiator



10. Top floor radiator



11. Smoke detector -hall



12. Carbon Monoxide Detector - kitchen



13. Heat detector - kitchen