

Housing and Property Chamber First-tier Tribunal for Scotland



Repairing Standard Enforcement Order (RSEO) made under Section 24 of the Housing (Scotland) Act 2006

Property: Flat 1/1, 4 Stow Street, Paisley PA1 2JJ (“the Property”/ “the house”)

Title No: REN39290

Chamber Reference: FTS/HPC/RT/19/3096

Parties:

**Renfrewshire Council, Communities Housing and Planning Services,
Renfrewshire House, Cotton Street, Paisley PA1 1BR (“Third Party Applicant”)**

Mr Iain Campbell, 44 Ben Nevis Road, Paisley PA2 7LX (“the Landlord”)

Tribunal Members – George Clark (Legal Member/Chairperson) and Mike Links (Ordinary Member/Surveyor)

Whereas in terms of their decision dated 31 January 2020, The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘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 (“The Act”), the Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard. In particular, the Tribunal requires the Landlord to:

1. Provide the Tribunal with an Electrical Installation Condition Report (EICR) in respect of the entire electrical installation within the Property issued by a SELECT, NAPIT or NICEIC registered electrician and containing no C1 or C2 items of disrepair and to provide the Tribunal with evidence of the electrician’s registration with one of the three aforementioned bodies.
2. Secure the kitchen tap.
3. Replace the door missing from one of the kitchen unit cupboards or replace the unit.
4. Carry out such repairs as are required to the kitchen flooring or replace it.
5. Repair the panel below the kitchen window.
6. Instruct a suitably qualified contractor to carry out all necessary repairs to remedy the cause of water penetration at the front elevation in the ceiling above the oriel window of the room currently used as a bedroom, to ensure the Property is wind and water tight and thereafter to redecorate as necessary.

7. Replace the sealant between the kitchen sink and the wall.
8. Carry out all making good and decoration associated with the completion of the foregoing works.

The Tribunal order that the works required by this Order must be carried out within the period of eight weeks from the date of service of this Order.

Right of Appeal

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

IN WITNESS WHEREOF these presents, typewritten on this and the two preceding pages, are executed by George Barrie Clark, Chairperson of the Tribunal, at Lasswade, on 31 January 2020, before this witness, Valerie Elizabeth Jane Clark, residing at Droman House, Lasswade, Midlothian.

G Clark

V Clark

..... Legal Member/Chair Witness



**Statement of Decision of the Housing and Property Chamber
of the First-tier Tribunal for Scotland under Section 26 (1) of
the Housing (Scotland) Act 2006**

Property: Flat 1/1, 4 Stow Street, Paisley PA1 2JJ (“the Property”/ “the house”)

Chamber Reference: FTS/HPC/RT/19/3096

Parties:

**Renfrewshire Council, Communities Housing and Planning Services,
Renfrewshire House, Cotton Street, Paisley PA1 1BR (“Third Party
Applicant”)**

Mr Iain Campbell, 44 Ben Nevis Road, Paisley PA2 7LX (“the Landlord”)

**Tribunal Members – George Clark (Legal Member/Chairperson) and Mike
Links (Ordinary Member/Surveyor)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“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”), determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act and that a Repairing Standard Enforcement Order should be made.

Background

1. By application, received by the Tribunal on 2 October 2019, 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 had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. 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. In particular, the Landlord had failed to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation, 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 and that any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

3. The application was accompanied by a copy of a letter sent by the Third Party Applicant to the Landlord on 22 January 2019, listing work which needed to be carried out to ensure the Property met the repairing standard. By the date of the application, a number of the items listed had been attended to. The outstanding items were set out in the application as follows:

1. The Tenant has advised light bulbs in the bathroom fuse indicating a fault in the lighting system.
2. The Tenant does not appear to have been provided with an Electrical Safety Certificate.
3. The kitchen tap is not secure.
4. There is a cupboard door missing in the kitchen.
5. The flooring at the far end of the kitchen located at the refrigerator is defective.
6. The panel below the kitchen window is in a poor state of repair.
7. There are damp readings above the bay window at the right-hand side.
8. The seal between the wall and wash hand basin in the bathroom is defective.
9. The seal between the wall and kitchen sink is defective.

4. On 19 November 2019, the President of the Housing and Property Chamber intimated a decision to refer the Tenant's application under Section 22 (1) of the Act to a Tribunal, gave Notice of Referral and of the date set for an inspection and Hearing.

5. On 2 January 2020, the Landlord provided written representations to the Tribunal. He stated that the issue regarding light bulbs in the bathroom had been resolved and that he had provided an Electrical Installation Condition Report along with the Gas Safety Certificate. Work had been instructed in relation to fitting a new kitchen unit and carrying out repairs to the kitchen flooring, the work being scheduled for the first week in January. The panel below the kitchen window stayed open to allow easy access to turn off the water at the valve which was there. The bath had now been sealed. New double-glazed windows had been fitted in 2016, a new gas boiler had been installed in 2013. A new freezer and a new cooker had recently been supplied. With regard to external works, the Landlord had contacted the property factors on three occasions and the works had been carried out.

6. The Tribunal Members inspected the Property on the morning of 8 January 2020 and were admitted by the Tenant. The Third Party Applicant was represented by Mrs Marion Maxwell. The Landlord was present at the inspection.
7. The Tribunal comprised George Clark (Legal Member/Chairperson) and Mike Links (Ordinary Member/surveyor).
8. A Schedule of Photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.

The Hearing

9. Following the inspection, the Tribunal held a Hearing at Glasgow Tribunals Centre. Mrs Marion Maxwell, from Renfrewshire Council, attended the Hearing. The Landlord was not present or represented.
10. Mrs Maxwell, on behalf of the Third Party Applicant told the Tribunal that there was little to add to the written representations and the evidence the Tribunal had seen for itself at the Inspection.
11. The Landlord told the Tribunal that Items 1 and 8 listed in the application had been dealt with and that Items 3, 4, 5, 6 and 9 were in the course of being dealt with.
12. The Parties then left the hearing and the Tribunal considered all the evidence before it, including written submissions, oral evidence given at the hearing and the matters it had noted at the inspection.

Findings of fact

13. The Tribunal makes the following findings of fact:
 - The Property comprises a first floor flat in a tenement block of traditional construction erected circa 1904. The accommodation comprises hall, living room to rear with kitchenette off, bedroom to front and bathroom.
 - There is no indication of any fault with the lighting in the bathroom and the Tenant confirmed at the inspection that the matter had been resolved.
 - The Tribunal has seen an Electrical Installation Condition Report (EICR) dated 22 May 2019. It contains 11 items of disrepair categorised as C1 or C2 and the overall assessment is that the installation is "Unsatisfactory" in terms of its suitability for continued use.
 - The kitchen tap is not secure.
 - There is a cupboard door missing in the kitchen.

- The flooring at the far end of the kitchen located at the refrigerator is defective.
- The panel below the kitchen window is in a poor state of repair
- There are damp readings in the ceiling above the oriel window of the room on the front elevation currently used as a bedroom.
- The seal between the wall and wash hand basin in the bathroom has been repaired.
- The seal between the wall and kitchen sink is defective.

Reasons for Decision

14. The Landlord told the Tribunal at the Hearing that Items 3, 4, 5, 6 and 9 of the list in the application were being attended to, most of them on the day following the Inspection and Hearing, but as at that date, the works remained outstanding and represented failures to meet the Repairing Standard. The EICR exhibited to the Tribunal contains a large number of items of disrepair categorised as C2 or C3. The Landlord advised the Third Party Applicant on 25 June 2019 that he had had electrical work carried out, including the fitting of a new consumer unit and mains-wired interlinked smoke detectors and a carbon monoxide monitor, but the Tribunal requires to see a satisfactory EICR, with no Category 1 or 2 items of disrepair and would observe that it would hope that there would be no Category 3 items either. The Tribunal noted that the Landlord had attempted to contact the property factors with a view to determining what external work required to be carried out, but the Tribunal had to include in the RSEO a requirement to resolve the issue of water penetration at the front elevation of the Property.
15. The Tribunal observed that the carbon monoxide monitor should be relocated so as to be in a position on the wall above the central heating boiler, in accordance with relevant guidance.

Decision

16. The Tribunal, having considered all the evidence before it and the matters it had noted at the inspection, decided to make a Repairing Standard Enforcement Order in respect of the Property.
17. The decision of the tribunal was unanimous.

Right of Appeal

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.

G Clark

Signed: Legal Member/Chairperson
Date: 31 January 2020

This is the Schedule of Photographs referred to in the foregoing
Statement of Decision of 31/11^{G Clark}

Legal Clerk
Housing and Property Chamber
First-tier Tribunal for Scotland



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

SCHEDULE OF PHOTOGRAPHS

ADDRESS: FLAT 1/1, 4 STOW ST, PAISLEY PA1 2JJ

DATE: 8TH JANUARY 2020

REFERENCE: FTS/HPC/RT/19/3096



FRONT ELEVATION



REAR ELEVATION



BATHROOM – LIGHTING.



KITCHEN – SINK UNIT



KITCHEN – FLOORING



KITCHEN – PANEL AT REAR WINDOW



BATHROOM – SEALANT AT WHB



FRONT ROOM – DAMP AT ORIEL CEILING

CO MONITOR AT BOILER REQUIRES TO BE LOCATED IN ACCORDANCE WITH GUIDELINES.

Mr M LINKS

ORDINARY MEMBER (SURVEYOR)

HOUSING AND PROPERTY CHAMBER

DATE