

Housing and Property Chamber First-tier Tribunal for Scotland



Repairing Standard Enforcement Order Ordered by the First-tier Tribunal for Scotland (Housing and Property Chamber)

Chamber Ref: FTS/HPC/RT/19/3068

Title no: REN101913

Flat 1/1, 32 Broomlands Street, Paisley, PA1 2NR ('The Property')

The Parties:-

Zarah Anwar, 1348 Barrhead Road, Glasgow, G53 7DF ('the Landlord').

Renfrewshire Council, Cotton Street, Paisley, PA1 1JD ('Third Party')

Marilyn Murie, Flat 1/1, 32 Broomlands Street, Paisley, PA1 2NR ('the Tenant').

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Robert Buchan (Ordinary Member).

NOTICE TO The said Zarah Anwar

Whereas in terms of their decision dated 10th January 2020 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 the Landlord has failed to ensure that the Property is wind and water tight and in all other respects reasonably fit for human habitation and that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and proper working order the Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property 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. Exhibit a valid and compliant Electrical Installation Condition Report (EICR) Certificate.
2. Exhibit a valid and compliant Gas Safety Certificate.
3. Repair the windows in the two front rooms of the Property to render them wind and water tight.

The Tribunal orders that these works must be carried out and completed by 15th February 2020.

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.

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 a landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy agreement 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 preceding page are subscribed at Glasgow on 13th January 2020 by Jacqui Taylor, chairperson of the Tribunal, in the presence of the witness Michael Colquhoun, 20 York Street, Glasgow.

J Taylor

Signed.....

Chairperson

M Colquhoun

..... witness

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 24 (1) of the Housing (Scotland) Act 2006.

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The Parties:-

Zarah Anwar, 1348 Barrhead Road, Glasgow, G53 7DF ('the Landlord').

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Marilyn Murie, Flat 1/1, 32 Broomlands Street, Paisley, PA1 2NR ('the Tenant').

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Robert Buchan (Ordinary 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) in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. The Tenant leases the Property from the Landlord in terms of the lease between the parties, which had been produced. The Third Party applied to the Tribunal for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ('the Act').

The application stated that they considered that the Landlord has failed to comply with the duty to ensure that the Property meets the repairing standard. They advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order and the house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

In particular the application stated :-

2.1 There is no smoke detection in the hall and living room and no heat detection in the living room.

2.2 There are gaps around the windows to the front of the Property and the Tenant has advised that the windows are draughty.

2.3 The Tenant does not appear to have been provided with a valid gas safety certificate from a registered gas safe engineer.

The Third party had also notified the Landlord that they are required to provide the Tenant with an electrical safety certificate.

3. On 30th October 2019, Maurice O'Carrol, as Convenor of the First- tier Tribunal (Housing and Property Chamber), having considered the application, comprising documents received between 1st October 2019 and 14th October 2019, referred the application under Section 22 (1) of the Act to a Tribunal.

4. On 18th November 2019 the President of The Housing and Property Chamber served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Third Party, the Landlord and the Tenant.

5. The Tribunal attended at the Property on 7th January 2020. The weather was very wet and windy. The Tenant was present at the inspection . The Third Party and the Landlord were not present and were not represented. The Tribunal Administration had sent the Landlord and the Third party notification of the inspection and the hearing by letter dated 18th November 2019. The Landlord replied by email dated 9th December 2019 advising that she required further time to submit written submissions. The Third party had advised that they would not be attending.

The Property, Flat 1/1, 32 Broomlands Street, Paisley, PA1 2NR is a first floor tenement flat which dates from circa 1900. The accommodation comprises 2 bedrooms, living room, kitchen and bathroom.

The Tribunal inspected the alleged defects and found as follows:-

5.1 There is no smoke detection in the hall and living room and no heat detection in the living room.

Hard wired and interconnected smoke detectors had been installed in the hall and lounge. Also a heat detector had been installed in the kitchen. The Tribunal tested the smoke detectors and were satisfied that they worked.

5.2 There are gaps around the windows to the front of the Property and the Tenant has advised that the windows are draughty.

The windows in the two front rooms of the Property are timber framed and double glazed. Significant draughts were noted from the frames in both rooms. Some parts of the opening sections of the windows had been painted shut had were not capable of being opened. The Tenant advised that a sealant had recently been applied to some of the windows in the living room but this was inadequate as the windows were still draughty. Applying sealer would only prevent the window from being opened.

5.3 The Tenant does not appear to have been provided with a valid gas safety certificate from a registered gas safe engineer.

No current Gas Safety Certificate has been provided.

5.4 The Tenant does not appear to have been provided with an EICR certificate.

No current EICR certificate has been produced.

Whilst not part of the application the Tribunal noted that the carbon monoxide detector had been installed on the kitchen wall close to the boiler contrary to the requirements of the guidance.

6. Photographs were taken during the inspection and are attached as a Schedule to this report.

7. Following the inspection of the Property the Tribunal held a hearing at The Glasgow Tribunal Centre. The parties did not attend.

8. Decision

8.1 The issues to be determined are:-

8.1.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether the condition of the windows in the two front rooms results in them not being wind and water tight and in all other respects reasonably fit for human habitation.

8.1.2 The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order (Section 13(1) (c) of The Housing (Scotland) Act 2006).

Regulation 36 of the Gas Safety (Installation and Use) Regulations 1988 requires landlords to have a Gas Safety Certificate carried out for all gas installations within their rental properties annually.

The Housing (Scotland) Act 2014 introduced the requirement for landlords to have an Electrical Installation Condition Report (EICR) carried out on all electrical installations, fixtures and fittings within their rental properties. All tenancies must have a valid EICR, a copy of which must be provided to the tenant. The EICR lasts for 5 years and must include Portable Appliance Tests (PAT) for all electrical appliances within the tenancy supplied by the landlords

Therefore the Tribunal have to consider if a valid Gas Safety Certificate and EICR have been provided .

8.1.3 The house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (Section 13(1) (f) of The Housing (Scotland) Act 2006).

The Tribunal acknowledged that the statutory guidance requires:

- One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.
- One functioning smoke alarm in every circulation space, such as hallways and landings.
- One heat alarm in every kitchen.
- All alarms should be interlinked.

The Tribunal must determine if the heat and smoke detectors in the Property comply with the statutory guidance.

8.2 Determinations:

8.2.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1) (a) of The Housing (Scotland) Act 2006).

The Tribunal determine that the draughty windows in the two front rooms of the Property result in them not being wind and water tight.

8.2.2 The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order (Section 13(1) (c) of The Housing (Scotland) Act 2006).

The Tribunal determine that no valid Gas Safety Certificate or EICR have been produced.

8.2.3 The house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (Section 13(1) (f) of The Housing (Scotland) Act 2006).

The Tribunal determine that the heat and smoke detectors in the Property do comply with the statutory guidance.

8.3. The Tribunal accordingly determined that the Landlord has failed to comply with the duties imposed by Sections 13 (1)(a) and (c) of the Act, as stated.

9. The decision of the Tribunal was unanimous.

Appeal

10. 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.

J Taylor

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...Chairperson

13th January 2020

13/1/20

J Taylor

Photographs taken during the inspection of
Flat 1/1, 32 Broomlands Street, Paisley, PA1 2NR



Front



Window frame showing gap

Photographs taken during the inspection of
Flat 1/1, 32 Broomlands Street, Paisley, PA1 2NR



Window frame showing lack of draughtproofing



Heat detector

Photographs taken during the inspection of
Flat 1/1, 32 Broomlands Street, Paisley, PA1 2NR



Smoke detector