

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 24 (1) of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22 of the Act

Chamber Ref: FTS/HPC/RP/23/2118

Re: Property at 3/1, 385, Sauchiehall Street, Glasgow G2 3HU being the subjects registered in the Land Register for Scotland under Title Sheet Number GLA201107 (“the Property”)

The Parties:

Sauchiehall Investments Limited, a company registered under the Companies Acts under registered number SC471249 and having a registered office at Trident House, Renfrew Road, Paisley, PA3 4EF (“the Landlord”) per their agents, LetUs, 2-2, 190 West George St, Glasgow, G2 2NR (“the Landlord’s Agents”)

Tribunal Members:

K Moore (Chairperson) and D Wooley (Ordinary and Surveyor Member)

Decision of the Tribunal

The Tribunal determined that the Landlord has failed to comply with the duty imposed on them by Section 14(1) (b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1) (a), 13(1)(f) and 13(1) (h) of the Act.

Background

1. By application received on 29 June 2023 (“the Application”), Miss Molly Burton, one of the tenants of the Property applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on them by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1)(a), 13(1)(f) and 13(1) (h) of the Act. The Application comprised a copy of the tenancy agreement between Miss Burton and others as tenants and the Landlord and copy correspondence between Miss Burton and the Landlord’s previous agents regarding repairs to the Property. The Application noted that the emergency lighting in common hallway is not functional, the fire alarm panel regularly

malfunctions, there are problems with the electrical work and with mould, the ceiling requires to have mould removed and to be reinforced and a lock requires to be installed on the back gate.

2. The Application was referred to the Tribunal. An Inspection of the Property and a Hearing were fixed for 23 October 2023 and intimated to the Parties.
3. Prior to the Inspection and Hearing, the Landlord's Agents lodged written submissions explaining that remedial actions were being taken by the Landlord. Also prior to the Inspection and Hearing, Miss Burton withdrew her interest in the Application. As the matters complained of related to the health and safety of the occupants of the Property, the Tribunal, by Minute dated 19 October 2023, continued the Application of its own accord.

Inspection and Hearing

4. The Inspection of the matters complained of in the Application took place at the Property on 23 October 2023 at 10.00 am. The tenants of the Property were present. The Landlord was not present or represented. A Schedule of Photographs taken at the Inspection was prepared and is annexed hereto.
5. The Hearing took place on 23 October 2023 at 11.45 am at Glasgow Tribunal Centre. The Landlord was not present and was represented by Mr. A. Johnston of the Landlord's Agents.
6. The Tribunal discussed the Inspection with Mr. Johnston and reported to him that from the Inspection it was noted that some of the matters complained of in the Application had been attended to, namely the common hall lighting, the fire door to one of the bedrooms and the water leak in the bathroom which had caused mould to form. The Tribunal advised that the tenants did not appear to have a current Electrical Installation Condition Report. The Tribunal advised that the fire panel in the common hall was showing a fault message and did not appear to work properly, the ceiling in the common hallway was in danger of collapse, the rear fire door had a bolt but was not secure and, although a lock had been affixed to the rear gate, it did not work and the gate could be opened regardless of the lock. The Tribunal advised that it was evident from items in the lower common hallway that rough sleepers and/ or hard drug users are occupying the hallway as a form of accommodation. The Tribunal noted that there is dampness in the area being used by the rough sleepers.
7. Mr. Johnston explained that he had recently taken over as letting agent for the Landlord and had begun to take action to deal with repair and maintenance at the Property. Mr. Johnston stated that the Landlord owned four of the six flats in the building and that as "LetUs" now manage all six flats he has more authority to deal with repairs.- The Tribunal noted that Mr. Johnston had lodged a report of an inspection of the Property which he had carried out recently, had attended to works following that inspection and that the tenants were content with his management.

8. Mr. Johnston lodged documents to show that electrical work had been carried out and a new lock had been fitted. With regard to the fire panel in the common hall, Mr. Johnston explained that this serves all four of the Landlord's properties but is not a suitable system as it is not comprehensive for all the flats. He explained that it is proposed that a new system is installed which will provide a fire alarm system for each flat and which will be compliant with current regulations. He stated that he is currently seeking quotes for this.
9. With regard to the ceiling in the entry close, Mr. Johnston advised that this sagging had been caused by a water leak from the flat above which leak was now fixed. He stated that there were no plans to pull the ceiling down but that it would be repaired.
10. With regard to the back gate, Mr. Johnston advised that he was not aware that there was still a repair issue with as the lock had been renewed and the gate posts had been straightened. He explained that the back area was subject to vandalism and thought that the back gate was the responsibility of the mews property.
11. With regard to an Electrical Installation Condition Report lodged by him, Mr. Johnston explained that this had been obtained by previous letting agents and he thought that it was fully compliant.

Summary of the Issues

12. The issues to be determined by the Tribunal are whether or not the Property meets the Repairing Standard in respect of Sections 13(1) (a), 13(1) (f) and 13(1) (h) of the Act at the date of the Inspection and Hearing.

Findings of Fact

13. From the Inspection and the Hearing, the Tribunal found the following in respect of matters specifically complained of in the Application:
 - i) The Property is a top floor four apartment flat within a four storey city centre tenement above commercial premises at ground floor level.
 - ii) The building is predominantly of traditional sandstone construction and is accessed via a common close and stairwell, shared with five other flats and protected by a security door entry system at ground level.
 - iii) The Landlord owns four of the six flats in the tenement;
 - iv) To the rear there is a fire escape door, which has been adapted/modified, leading to a yard which provides access to a rear service lane.
 - v) The property is classed as a "House in Multiple Occupation".
 - vi) The emergency lighting within the communal hall and stairwell has now been repaired to the satisfaction of the tenants;
 - vii) The "Fire Panel" located at the communal close entrance serves four of the six flats within the building.
 - viii) During the inspection, the display on the panel was reading "There are faults on this zone".

- ix) The Property has inadequate interlinked fire/smoke protection.
- x) At the ground floor communal close entrance, the ceiling plaster has become badly damaged, cracked and is poorly secured.
- xi) The fire escape access to the rear of the tenement has been adapted/modified with the addition of a bolt/lock mechanism situated, on the internal panel towards the top of the door in contravention of "fire escape regulations".
- xii) The door displays evidence of significant wear, is in need of repair and the self-closing mechanism is not functioning creating a security risk.
- xiii) The tenants were unable to exhibit an Electrical Installation Condition Certificate to the Tribunal and were unaware of the existence of such a document.
- xiv) The Electrical Installation Condition Certificate lodged by the Landlord's Agent does not appear to comply with the current Regulations.
- xv) The shower within the bathroom, previously identified as defective/leaking causing damage to the surrounding floor and the flat immediately below has now been repaired.
- xvi) There are security issues in the building specifically related to the gate leading from the rear lane and the rear fire escape door which has undergone modification and adaption.
- xvii) The security gate providing access from the rear lane is not in proper working order. The "turn/twist" locking mechanism is broken. There is no means of securing the base of the left gate (as viewed from the back court) to the ground due to a missing steel "locking rod". The right hand gate cannot be secured due to the "locking rod" being buckled and failing to engage with the connection at ground level.
- xviii) Within the rear or lower communal close there are clear signs and the remains of hard drug consumption, rough sleeper occupation and debris at the base of the stairs, all of which create a fire hazard.

14. At the Inspection, the Tribunal noted that there is dampness in the rear or lower communal close. The Landlord's attention is drawn to paragraph 21 below.

Decision of the Tribunal and reasons for the decision.

15. The Tribunal's decision is based on the Application with supporting documents, the Landlord's written representations, the Inspection, and the Hearing.
16. In respect of the complaint in terms of Section 13 (1) (a) of the Act that the Landlord has failed to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation, the Tribunal found that the poor condition of the common entrance hallway ceiling in respect of stability and mould is such that at the date of the Inspection and Hearing the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
17. In respect of the complaint in terms of Section 13 (1) (f) of the Act that the Landlord has failed to ensure that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, the Tribunal found that the lack of a working fire system and the ineffectiveness of

the rear fire escape door is such that at the date of the Inspection and Hearing the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

18. In respect of the complaint in terms of Section 13 (1) (h) of the Act that the Landlord has failed to ensure that the Property meets the Tolerable Standard, as the Tribunal has found that the poor condition of the common close entrance ceiling in respect of stability and mould means that the common property relative to the Property is not in a reasonable state of repair, has found that there is a lack of a working fire system and the ineffectiveness of the rear fire door, debris, that drug paraphernalia and bedding items are deposited in the rear common close and that there is no evidence of a compliant Electrical Installation Condition Certificate, the Tribunal found that the Property does not meet the Tolerable Standard and so the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

19. The decision is unanimous.

Repairing Standard Enforcement Order (RSEO)

20. Having determined that the Landlords have failed to comply with the duty imposed by section 14(1) (b), the Tribunal proceeded to make an RSEO as required by Section 24 (1) of the Act.

Note to Landlord

21. The Landlord's attention is drawn to the Tribunal's comments in respect of the dampness in the rear lower common hallway. It is recommended that this be investigated and repaired to avoid further deterioration.

Appeal

22. 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.

Signed

K Moore, Chairperson

30 October 2023