

# Housing and Property Chamber First-tier Tribunal for Scotland

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

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

**Parties :** Ms Helen Williams residing at 21 Rosebank Drive, Viewpark, Uddingston, G71 5DX (“the Tenant”) and

Mr. James Wilson residing at 132, Swinton Road, Baillieston, Glasgow, G69 6OW (“the Landlord”)

**Property:** registered in the Land Register for Scotland under Title Number LAN15751 (“the Property”)

**Chamber reference:** FTS/HPC/RP/17/0228

### **Tribunal Members**

Karen Moore (Legal Member and Chairperson)

Lorraine Charles (Ordinary Member)

### **Background**

1. By application form received by the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Chamber”) on 15 June 2017 and subsequent correspondence (“the Application”), the Tenant applied to the Chamber for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14(1)(b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1)(a), 13(1)(b), 13(1)(c), 13(1)(f) and 13(1)(g) of the Act.

2. The President of the Chamber, having considered the Application and having determined to continue the Application in terms of Schedule 2, Paragraph 7(2) of the referred the Application to a tribunal, and, in terms of Schedule 2, Paragraph 1 of the Act, fixed an Inspection and Hearing for 5 October 2017 at 10.00 a.m. and 11.30 a.m., respectively. However, due to the ill health of the Tenant on that date, the Inspection and Hearing were adjourned until 30 November 2017 at 10.00 a.m. and 11.30 a.m., respectively.

### **Inspection and Hearing.**

3. The Inspection took place on 30 November 2017 at 10.00 a.m. at the Property. The Tenant and her son were present at the Inspection. The Landlord was not present at the Inspection.
4. The tribunal inspected the parts of the Property referred to by the Tenant in the Application namely:-
  - the broken living room window;
  - the wall at the living room window;
  - the wet patches, dampness and cracks in the walls and ceilings in both the hallway and the back bedroom;
  - the mould and rot in the bathroom;
  - the loose and leaking shower and hot tap in the bathroom;
  - the leaking radiator in the bathroom;
  - the smoke and carbon monoxide detectors;
  - holes in the roof;
  - the bird's nest at the back bedroom external wall and the large cracks externally.
5. At the Inspection, the Tenant advised the tribunal that she would be unable to attend the Hearing due to mobility and health reasons and stated the Landlord recently had carried out dampness and decoration work to the rear wall of the backroom and had replaced the hot tap in the bathroom. The Tenant advised the tribunal that she was satisfied that there were no cracks on the external walls and no bird's nest at the back bedroom external wall. She also advised the tribunal that she had repaired the radiator in the bathroom herself. The

tribunal confirmed to the Tenant that the Hearing was the appropriate forum for evidence but that the tribunal would note the Tenant's comments.

6. At the Inspection, the tribunal took digital photographs which photographs form the Schedule annexed to this decision.
7. Following the Inspection, a Hearing was held at Brandongate, Ground floor Block C, Leechlee Road, Hamilton ML3 6AU on the same day at 11.30 a.m. The Tenant was not present. The Landlord was present and accompanied by his mother as a supporter and who took no part in the proceedings.
8. At the Hearing, the tribunal related to the Landlord the proceedings which had taken place at the Inspection, namely the inspection of the matters complained of in the Application and the Tenant's comments. The Landlord advised that tribunal that he and his contractors had visited the Property recently and had not seen evidence of the external cracks and the bird's nest. He agreed that he had carried out dampness and decoration work to the rear wall of the backroom and had replaced the hot tap in the bathroom. He acknowledged that the living room window is broken and requires to be replaced and that the showerhead seal leaks and requires to be replaced. He had advised the tribunal that he had had difficulty in arranging parts for these repairs. The Landlord advised the tribunal that he was unaware of the other matters complained of the by the Tenant, namely the cracked plasterwork in the hall and living room and the non-compliant smoke alarms.

### **Summary of the Issues**

9. 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)(b), 13(1)(c), 13(1)(f) and 13(1)(g) of the Act at the date of the Inspection and Hearing.

## **Findings of Fact**

10. The Landlord is the owner of the Property. The tribunal is satisfied that Ms. Helen Williams is the Tenant by virtue of proof of rent paid by or on her behalf her to the Landlord being evidenced to the tribunal.

11. The Property is a mid terraced two storey property with a roughcast exterior and pitched tiled roof, constructed circa 1960. The Property comprises a living room, two bedrooms, a kitchen and bathroom and has double glazed windows and gas central heating. There are gardens to the front and rear.

12. From the Inspection, the tribunal found the following:-

The external panel of the double-glazed living room window unit is cracked and broken;

There is a crack in the plasterwork below the living room window at the point where the radiator is fixed, but no water ingress as a result;

There are no wet patches or dampness in the walls and ceilings in either the hallway or the back bedroom, although recent treatment of the rear wall of the backroom was visible;

There is slight cracking in the downstairs hall ceiling which appears to be of an age and not recent;

There is damage to the plasterwork in the hallway at the edge of the wall at the front door, but no water ingress as a result;

There is evidence of condensation mould at the sealant around the bath and at the frame of the bathroom window;

There is evidence of slight wetness on the wooden panel underneath the bathroom wash hand basin and at the base of the toilet bowl;

The shower head leaks and appears to require its seal to be replaced;

The bathroom wash hand basin hot tap appears to be in working order;

The bathroom radiator appears to be in working order and is not leaking;

There is one hardwired smoke detector in the upper hall and one in the downstairs hall, but these are not connected as required by regulation. Only the downstairs hall detector is in working order;

There is one battery operated carbon monoxide detector in the Property;

There do not appear to be any holes in the roof;

There does not appear to be a bird's nest at the back bedroom wall and  
No cracks could be seen in the external rendering.

13. From the Hearing, the tribunal found that the Landlord accepted that works to  
the Property were required.

### **Decision of the tribunal**

14. The tribunal's decision is based on the Application with supporting  
documents, the Inspection and the Hearing.

15. In respect of the Application, the tribunal noted that the Tenant made  
complaints in respect of Sections 13(1)(c), 13(1)(f) and 13(1)(g) of the Act by  
ticking the relevant boxes at part 7 of the application form and in respect of  
Section 13(1)(a) and Section 13(1)(b) of the Act by providing a written  
explanation on the application form.

16. In respect of Section 13(1)(a) of the Act, the tribunal found that at the date of  
the Inspection and Hearing the Landlord has not failed to comply with the duty  
imposed by Section 14(1)(b) of the Act, the reason being that there was no  
evidence of holes in the roof, external cracks in the fabric of the building and  
that, although the living room window is broken, it is the external part of the  
double glazed unit which is broken and there is no evidence of water ingress  
and, accordingly, the tribunal found that the Property is wind and watertight  
and reasonably fit for human habitation.

17. In respect of Section 13(1)(b) of the Act, the tribunal found that at the date of  
the Inspection and Hearing the Landlord has failed to comply with the duty  
imposed by Section 14(1)(b) of the Act, the reason being that the external part  
of the double glazed unit of the living room window is broken and should be  
repaired and so the failed to ensure that the structure and exterior of the  
Property (including drains, gutters and external pipes) is not in a reasonable  
state of repair and in proper working order.

18. In respect of Section 13(1)(c) of the Act, the tribunal found that at the date of the Inspection and Hearing the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act, the reason being that as the showerhead seal and the sealant at the bath are defective and as there is evidence of slight wetness on the wooden panel underneath the bathroom wash hand basin and at the base of the toilet bowl, the tribunal cannot be satisfied 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.
19. In respect of Section 13(1)(f) of the Act, the tribunal found that at the date of the Inspection and Hearing the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act, the reason being that as the smoke detectors do not comply with current regulation, the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
20. In respect of Section 13(1)(g) of the Act, the tribunal found that at the date of the Inspection and Hearing the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act, the reason being that as the carbon monoxide detector does not comply with current regulation, the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
21. The decision was unanimous.
22. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.

### **Review of tribunal's decision**

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

**K Moore**

Karen Moore

Chairperson

29 December 2017

29 Dec 2018  
this is the Schedule of Photographs referred  
to in Decision FTS/HPC/EP/17/0228

K Moore  
Chairperson

# Housing and Property Chamber First-tier Tribunal for Scotland



## Schedule of Photographs



Address 21 Rosebank Drive,  
Veiwpark, Uddingston, G71 5DY

RP17/0228

Inspection Date 30<sup>th</sup> November 2017 at 10am

Weather - Dry and Bright





Holes in roof - No evidence of missing or broken tiles – heavy covering of moss at the rear elevation. No evidence of bird's nest at rear bedroom window



Loose leaking taps - New taps fitted



Mould/rot and leaking Radiator – Repaired



Loose shower head -  
Shower head replaced slight leak at seal



Mould within bathroom – Condensation



Dampness on walls and ceiling back bedroom – no evidence of water ingress  
Landlord cleared guttering and painted wall and ceiling.



Crack below living room window



Broken living room window



Holes in wall - hall



Wet patched hall ceiling – historic water marks no evidence of recent water ingress