

# Housing and Property Chamber First-tier Tribunal for Scotland

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

**Housing (Scotland) Act 2006 Section 24**

**Chamber Ref: FTS/HPC/RP/18/0457**

## **The Property**

**192 Kirktonholme Road, East Kilbride, Glasgow, G74 1ER**

**Title no: LAN41366**

## **The Parties**

**Miss Jacqueline McLauchlan, formerly residing at 192 Kirktonholme Road, East Mains, East Kilbride, G74 1ER (“The Tenant”)**

**Ms Natalie Ramsay, 139 Aldwickbury Crescent, Harpenden, Hertfordshire AL5 5SS and Ms Emma Regan 93 Oxlane, Harpenden, Hertfordshire AL5 4PN (“The Landlords”)**

## **Tribunal Members**

**G McWilliams (Legal Member) and L Charles (Ordinary Member)**

## **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 or not the Landlords have complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 as amended (“the Act”) in relation to the Property, determined that the Landlords have not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

## **Background**

1. By lodging documents with the Tribunal between 27<sup>th</sup> February and 5<sup>th</sup> April 2018, the Tenant of the Property, Miss Jacqueline McLauchlan, formerly residing at the Property, applied to the Tribunal for a determination of whether or not the Landlords have failed to comply with the duties imposed by Section 14 (1)(b) of the the Act.
2. The Tenant's Application stated that she considered that the Landlords had failed to comply with their duties to ensure that the Property meets the Repairing Standard. The Application stated that the Tenant believed that (a) the house is not wind and watertight and in all other respects reasonably fit for human habitation; and (b) the structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair, and (c) 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 in proper working order. The Tenant specifically complained that windows in the Property were screwed shut, the gas central heating boiler was not working, and the overflow pipe was leaking, there was no heating at the Property, and that there was debris in the back garden at the Property.
3. The Tenant left the Property around 7<sup>th</sup> May 2018 and, from then, was no longer a participating party in these proceedings.
4. The Tribunal comprised G. McWilliams, Legal Member, and L Charles, Ordinary Member. The Tribunal served Notice of Referral, under and in terms of Schedule 2, Paragraph 1 of the Act, upon the Landlords on 14<sup>th</sup> May 2018.
5. The Tribunal Members attended at the property on 21<sup>st</sup> June 2018 for an Inspection. The Tribunal members were given access to the Property through a representative of the Landlords' Letting Agents, Concept Letting Agency, 1 Montgomery Place, The Village, East Kilbride, G74 4BF.
6. Following the Inspection of the Property the Tribunal held a Hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT, also on 21<sup>st</sup> June 2018. The Landlords did not attend the Hearing.

## **Findings on Inspection- see attached Photographs Schedule**

7.
  - (i) The two windows in the living room, and the window in the kitchen, on the ground floor of the Property, open and close, and are in working order. The windows in the first, front facing bedroom, second, front facing bedroom and the rear facing bedroom on the first floor of the Property open and

close and are in working order. The exteriors of the ground floor windows in the living room and kitchen contained holes which indicated that those windows had previously been screwed shut. New handles have been fixed on all of the windows. The handles are not easy to manoeuvre and some physical strength is required to open and close the windows.

- (ii) The boiler within the cupboard in the first, front facing bedroom, on the upper floor of the Property, appeared to the Tribunal to be in good condition. The Tribunal had previously been sent a satisfactory Gas Safety Report by the Landlords, which was received at the Tribunals Office on or around 11<sup>th</sup> June 2018.
- (iii) The grass in the garden to the rear of the Property is overgrown but there is no debris in the garden. The small area of garden ground to the front of the Property is in good order.
- (iv) A heat detector was installed in the kitchen, and a smoke detector installed in the living room of the Property. These were tested by the Tribunal and are in working order.
- (v) There is a broken spindle at the foot of the stairway in the Property..

### **The Hearing**

- 8. There was no attendance at the Hearing by the Landlords or any person. A Schedule of internal and external photographs of the Property, taken at the Inspection, is attached to this Decision

### **The Repairing Standard**

- 9. The Repairing Standard is set out in Section 13 of the Act:

A house meets the Repairing Standard if:-

- (a) The house is wind and watertight and in all other respects reasonably fit for human habitation,
- (b) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
- (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,

- (e) Any furnishings provided by the Landlord under the Tenancy are capable of being used safely for the purpose for which they are designed,
- (f) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire,
- (g) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

### **Findings in Fact**

- 10. The Property is a terraced house erected around 1970. It is located in a residential area in East Kilbride, around twelve miles south of Glasgow City Centre. The Property comprises an entrance hall and stairway, living room and kitchen on the ground floor, and three bedrooms and a bathroom on the upper floor.
- 11. The windows throughout the Property are in working order. The ground floor windows have previously been screwed shut. New handles have been inserted on all of the windows in the Property and the windows now open and close per those handles. Additional physical strength is required to manoeuvre the handles and the windows do not open and close easily.
- 12. A Gas Safety Certificate in satisfactory terms, confirming that the installation in the house for the supply of gas and heating is in a reasonable state of repair and in proper working order, was lodged with the Tribunal by the Landlords on or around 11<sup>th</sup> June 2018.
- 13. The small area of garden ground to the front of the Property is tidy and in order.
- 14. The grass in the garden ground to the rear of the Property is overgrown.
- 15. There is no debris in the garden areas at the property.

### **Reasons for Decision**

- 16. The Tribunal made its findings based upon what it found at the Inspection and after considering the documents and case papers. Whilst some strength is required to manoeuvre the new handles on the windows throughout the Property, in order to open and close the windows, the handles are working and the windows do open and close. The Tribunal therefore find that the house is wind and watertight and reasonably fit for human habitation. A Gas Safety Certificate lodged by the Landlords is in satisfactory terms. Accordingly the Tribunal are satisfied that the installation in the house for the supply of gas and heating water is in a reasonable state of repair and in proper working order. There was no debris in the garden area at the Property. The Tribunal accordingly find that the structure and exterior of the house is also in a reasonable state of repair. Therefore, having

considered all the evidence, the Tribunal find that the Landlords have not failed to comply with their duties to ensure that the Property meets the Repairing Standard in terms of the Act. Given its finding the Tribunal consider that it is not appropriate to make a Repairing Standard Enforcement Order (“RSEO”).

### **Decision**

17. The Tribunal has determined that the Landlords have not failed to comply with the duties imposed by Section 14 (1)(b) of the Act, as stated.
18. The decision of the Tribunal is unanimous.

### **Recommendations**

19. The Tribunal found that the new handles on the windows throughout the property are not capable of being manoeuvred easily, and additional physical strength is required to open and close the windows per the handles. It is recommended that the the Landlords ensure that the handles are adjusted so that they can be manoeuvred without the requirement for additional physical strength.
20. The Tribunal found that there was a broken spindle at the foot of the stairway within the Property. This may present a safety issue for very young children occupying the Property. It is recommended that the Landlords ensure that the spindle is replaced.

### **Right of Appeal.**

**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 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.**

Signed:

Date 9<sup>th</sup> July 2018

G. McWilliams, Legal Member