

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/RP/18/2946

Title no: REN89837

29B Orchard Street, Renfrew, PA4 8RJ being the subjects registered in the Land Register of Scotland under Title Number REN89837 ('The Property')

The Parties:-

Claire Wales or Morrison residing formerly at Flat 2/2, 2327 Dumbarton Road, Glasgow, G14 0NL and now at Flat 2/2, 4 Ashton Gate, Lenzie, G66 3ET ('the Landlord').

Nicola Delaney residing at 29B Orchard Street, Renfrew ('the Tenant').

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

NOTICE TO **The said Claire Morrison**

Whereas in terms of their decision dated 24th January 2019 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.

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. Repair the dampness at the following locations in the Property to render the Property water tight:

- 1.1 **Living Room** - The internal wall between the Living room and the bedroom which was found to be saturated with dampness to a height of approximately 0.4 metres at the corner near to the bay window.

- 1.2 **Bathroom** - The party wall of the bathroom behind the whb + wc which was found to be saturated with dampness to a height of approximately 1.5

metres. The section of reinforced beam above and facing the bath which was also found to be saturated with dampness

1.3 Dining/Kitchen -

- a) The lower right hand side of the cupboard housing the boiler;
- b) The corner section of the party wall to the right of the old fireplace, and the section of the dividing wall between the dining/kitchen and bathroom above the new plasterwork at a height of approximately 1.5 metres;
- c) The wall section immediately to the right of the doorway into the utility room.

1.4 Hall Cupboard - The internal wall between the hallway cupboard and the close to a height of approximately 1.5 metres.

- 2. Repair the broken double socket in the kitchen to render it in proper working order.
- 3. Make secure any loose sections of the kitchen flooring.

The Tribunal orders that these works must be carried out and completed by 15th March 2019.

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 and 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 Irvine on 24th January 2019 by Jacqui Taylor, chairperson of the Tribunal, in the presence of the witness Keirsten Byrne, 65, High Street, Irvine.

J Taylor

Signed.....

Chairperson
Byrne

.....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.

Chamber Ref: FTS/HPC/RP/18/2946

Title no: REN89837

29B Orchard Street, Renfrew, PA4 8RJ being the subjects registered in the Land Register of Scotland under Title Number REN89837 ('The Property')

The Parties:-

Claire Wales or Morrison residing formerly at Flat 2/2, 2327 Dumbarton Road, Glasgow, G14 0NL and now at Flat 2/2, 4 Ashton Gate, Lenzie, G66 3ET ('the Landlord').

Nicola Delaney residing at 29B Orchard Street, Renfrew ('the Tenant').

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Nick Allan (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 Short Assured Tenancy between the parties. The Tenant 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').
2. The application stated that she considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. She 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; the fixtures, fittings and appliances provided by the Landlord under the tenancy 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 The Property has been assessed as having rising damp. Environmental health was informed and complied a report however the Tenant is very concerned that the Landlord has not given consent for the full repairs to be completed.

2.2 There are no functioning fire alarms. There is no smoke alarm in the living room or heat detector in the kitchen.

2.3 Defective electrics.

2.4 The radiator in the kitchen has partially collapsed and requires to be made safe.

2.5 The flooring in the kitchen is sinking in places.

3. Jacqui Taylor, as Convenor of the First- tier Tribunal (Housing and Property Chamber), having considered the application, comprising documents received on 1st November 2018, referred the application under Section 22 (1) of the Act to a Tribunal.

3. On 28th November 2018 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 both the Landlord and the Tenant.

4. The Landlord provided written representations dated 16th December 2018. She explained that she uses the services of Rite Homes Property Management to let the Property for her. She had not refused to carry out the repairs, as soon as she was aware of them she took steps to have them completed. She had instructed Peter Cox to carry out works to the Property to repair the rising damp and had paid them £2500. She has recently placed the Property on the market for sale.

5. The Tribunal attended at the Property on 9th January 2019. The Tenant was present at the inspection. The Landlord was not present at the inspection but was represented by Roberto Rigano and Craig Weir, Director and Property Manager respectively of Rite Homes Property Management.

The Property, 29B Orchard Street, Renfrew, PA4 8RJ is a traditional tenement flat which dates from circa 1890. The accommodation comprises 1 bedroom, living room, dining kitchen, hall cupboard and internal bathroom.

The Tribunal inspected the alleged defects and found:-

5.1 Rising damp.

Damp Treatments had been carried out to the Property. The Ordinary Member of the Tribunal tested the Property for dampness with his damp meter. He found high damp readings at the following locations within the Property:

- **Living Room** - The internal wall between the Living room and the bedroom was saturated with dampness to a height of approximately 0.4 metres at the corner near to the bay window.
- **Bathroom** - The party wall of the bathroom behind the whb + wc was saturated with dampness to a height of approximately 1.5 metres. The section of reinforced beam above and facing the bath was saturated with dampness.

- **Dining/Kitchen -**

- a) The lower right hand side of the cupboard housing the boiler;
- b) The corner section of the party wall to the right of the old fireplace, and the section of the dividing wall between the dining/kitchen and bathroom above the new plasterwork at a height of approximately 1.5 metres;
- c) The wall section immediately to the right of the doorway into the utility room.

- **Hall Cupboard -** The internal wall between the hallway cupboard and the close to a height of approximately 1.5 metres.

5.2 There are no functioning fire alarms. There is no smoke alarm in the living room or heat detector in the kitchen.

Inter connected smoke alarms had been installed in the hall and living room. A carbon monoxide alarm and heat detector had also been installed in the kitchen.

5.3 Defective electrics.

A double wall socket in the kitchen was damaged as the plastic casing had been part-shattered.

5.4 The radiator in the kitchen has partially collapsed and requires to be made safe.

The radiator had been repaired and was now secure.

5.5 The flooring in the kitchen is sinking in places.

The laminate flooring was loose in places and not secure. The floor was slightly uneven but it did not bounce when walked on.

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

6. Following the inspection of the Property the Tribunal held a hearing at The Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT.

The Tenant did not attend the hearing. The Landlord and her representatives the said Roberto Rigano and Craig Weir attended the hearing.

In respect of the matters in the application the Landlord and her representatives advised as follows:

6.1 Rising damp.

Roberto Rigano explained that he had instructed Peter Cox, the damp specialists, to repair all the dampness in the Property. Accordingly he was surprised that the Tribunal found evidence of dampness at the inspection, but acknowledged that dampness was still present.

6.2 There are no functioning fire alarms. There is no smoke alarm in the living room or heat detector in the kitchen.

The Landlord confirmed that the smoke alarms and heat detector had been installed in the Property.

6.3 Defective electrics.

Roberto Rigano accepted that the double socket in the kitchen was broken.

6.4 The radiator in the kitchen has partially collapsed and requires to be made safe.
Roberto Rigano confirmed that the radiator had been repaired.

6.5 The flooring in the kitchen is sinking in places.

Roberto Rigano explained that the uneven kitchen flooring had occurred as a result of water ingress in the past, and acknowledged that a section of floor covering was loose.

7. Decision

The Tribunal made the following findings in fact:-

7.1 The smoke alarms and heat detector had been installed and comply with the Repairing Standard.

7.2 The radiator in the kitchen had been satisfactorily repaired.

7.3 Therefore the issues to be determined are:-

7.3.1 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 dampness identified during the inspection results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

7.3.2 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).

Whether the condition of the double electric socket in the kitchen results in it not being in a reasonable state of repair and proper working order.

7.3.3 The fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and proper working order. (Section 13(1) (d) of The Housing (Scotland) Act 2006).

Whether the condition of the flooring in the kitchen results in it not being in a reasonable state of repair and proper working order.

8. Decision

8.1 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 dampness identified at the inspection with the Ordinary Member's damp meter results in the Property not being wind and water tight.

8.2 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 the broken double socket in the kitchen being unsafe it is not in a reasonable state of repair and proper working order.

8.3 The fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and proper working order. (Section 13(1) (d) of The Housing (Scotland) Act 2006).

The Tribunal determine that the loose flooring in the kitchen being unsafe it is not in a reasonable state of repair and proper working order. However they determined that the uneven flooring was not sufficiently uneven to require repair.

Decision

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

10. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

11. The decision of the Tribunal was unanimous.

Appeal

12. 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

.....Chairperson

24th January 2019



Inspection - Photograph Schedule
29B Orchard Street, Renfrew, PA4 8RJ

24/1/19
J Taylor

Case Reference: FTS/HPC/RP/18/2946

Date of inspection: 09/01/2019

Time of inspection: 10.00 am

Weather conditions: Dry and sunny

Present:
Mrs Jacqui Taylor – Legal Member
Mr Nick Allan – Ordinary Member
Ms Nicola Delaney – Tenant
Mr Roberto Rigano – Ritehome (L/L Rep)
Mr Craig Weir – Ritehome (L/L Rep)



Photo 1 – Front elevation



Photo 2 – Saturated wall in Living room



Photo 3 – Saturated wall in Bathroom



Photo 4 – Saturated wall in Bathroom



Photo 5 – Damp wall and beam section



Photo 6 – Saturated wall section



Photo 7 – Damp wall section at 1.5 m



Photo 8 – Saturated wall section within Press



Photo 9 – Saturated wall at Pantry door



Photo 10 – Gas boiler in Kitchen/Dining room

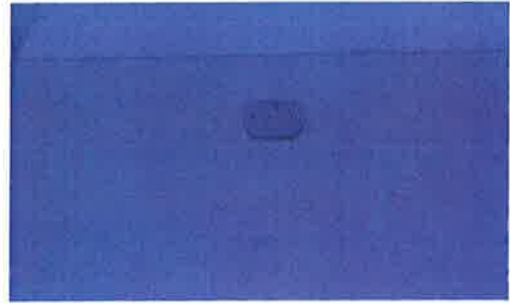


Photo 11 – Carbon Monoxide alarm



Photo 12 – Loose flooring cover in Kitch/Din.

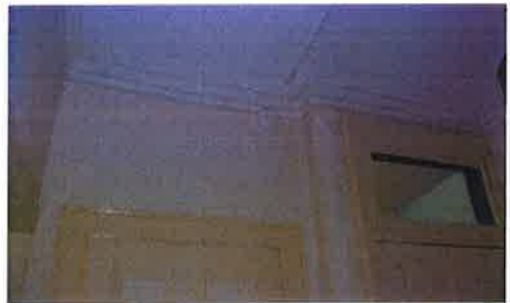


Photo 13 – Smoke detector in hallway



Photo 14 – Smoke detector in Living room



Photo 15 – Dampness in hallway Press



Photo 16 – Section of silicone injected dpc



Photo 17 – Blocked sub-floor air vent

Nick Allan FRICS
Surveyor – Ordinary Member
First-tier Tribunal
Housing and Property Chamber – 17th January 2019