

Housing and Property Chamber

First-tier Tribunal for Scotland



Repairing Standard Enforcement Order (RSEO) made under Section 24 of the Housing (Scotland) Act 2006

Whereas in terms of their decision dated 30 October 2018, The First-tier Tribunal for Scotland (Housing and Property Chamber) (“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 (“the Act”), the Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned 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:

- (1) to exhibit to the Tribunal a satisfactory up to date Electrical Installation Condition Report in respect of the entire electrical installation in the Property;
- (2) to exhibit to the Tribunal satisfactory Portable Appliance Tests in respect of all electrical appliances provided by the Landlord, including the cooker, fridge/freezer, microwave oven and washing machine;
- (3) to replace the sofa with one which is in a reasonable state of repair and which meets current fire safety requirements;
- (4) to carry out such repairs to the windows as are necessary to ensure they are wind and water tight and fully operational so as to allow safe cleaning from inside;
- (5) to install in the Property a fixed form of heating, whether electrical or gas, to provide adequate heating throughout the Property and, in the event that the heating is electrical, to ensure that it is covered by the Electrical Installation Condition Report required by this Order and, in the event that it is gas, to exhibit to the Tribunal a satisfactory Gas Safety Certificate when the heating installation work has been completed; and
- (5) to carry out such repairs as are necessary to restore the washing machine to proper and safe working order, or to replace it.

The Tribunal order that the works required by this Order must be carried out within the period of 8 weeks from the date of service of this Order.

Right of Appeal

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.

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.

IN WITNESS WHEREOF these presents, typewritten on this and the preceding page, are executed by George Barrie Clark, Chairperson of the Tribunal, at Lasswade, on 30 October 2018, before this witness, Valerie Elizabeth Jane Clark, residing at Droman House, Lasswade, Midlothian.

G Clark

Legal Member/Chairperson

V Clark

Witness

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 26 (1) of the Housing (Scotland) Act 2006

Property: 70H Paisley Road, Renfrew PA4 8EX (“the Property”/ “the house”)

Chamber Reference: FTS/HPC/RP/18/1779

John McLean, 70H Paisley Road, Renfrew PA4 8EX (“the Tenant”)

Mohammed Ishraf and Mohammed Razaq, 12 May Terrace, Mount Florida, Glasgow G42 9XF and Mohammed Younis, 34 Carmichael Place, Langside, Glasgow G42 9UE, all represented by GPS Glasgow Limited, incorporated in Scotland under the Companies Acts (SC542635) and having a place of business at 467 Victoria Road, Queen’s Park, Glasgow G42 8RL (“the Landlord”)

Tribunal Members – George Clark (Legal Member/Chairperson) and Nick Allan (Ordinary Member/Surveyor)

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 the Landlord has complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (‘the Act’), determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act and that a Repairing Standard Enforcement Order should be made.

Background

1. By application received on 19 July 2018, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord had 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 the Tenant considered that the Landlord had failed to comply with the duty to ensure that the house meets the repairing standard.

In particular, the Tenant stated that the Landlord had failed to ensure that:-

- The house is 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 in a reasonable state of repair and in proper working order,
 - any fixtures and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order and
 - any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed..
3. In his application and its supporting documentation, the Tenant stated that the front door lock was broken, there was an unsafe electrical cooker connection, the sofa was broken, the windows were not wind and water tight, there was no heating and the washing machine was broken.
 4. On 7 August 2018, the President of the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal, gave Notice of Referral and of the date set for an inspection and hearing.
 5. The Landlord made no written representations to the Tribunal.
 6. The Tribunal attempted to inspect the Property on the morning of 17 September 2018 but was unable to gain entry. The Tribunal, therefore, decided to set another date for an inspection and hearing.
 7. The Tribunal inspected the Property on the morning of 30 October 2018. The Tenant and the Landlord's representative, Tahir Bashir of GPS Glasgow Limited were both present at the inspection.
 8. The Tribunal comprised George Clark (Legal Member/Chairperson) and Nick Allan (Ordinary Member/surveyor).
 9. A file of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.

The Hearing

10. Following the inspection, the Tribunal held a hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The Tenant's representative, Fiona Brown, Advice Plus Worker at Shelter Scotland, attended the

hearing. The Landlord's representative, Mr Bashir, also attended the hearing.

11. The Tenant's representative told the Tribunal that the Property had originally been let by a different agent and that it was basically in the same condition as it had been at the start of the tenancy. There was no heating, the windows were draughty and the power point for the cooker was hanging off the wall.
12. The Landlord's representative stated that when they had taken over the Property, they had been unaware that there was a tenant living in it. They had only become aware of that when the Tenant's representative had provided them with a copy lease. The Landlord's representative accepted that there was an urgent need to get an electrician into the Property.
13. The Parties' representatives then left the hearing and the Tribunal considered all the evidence before it, including written submissions, oral evidence given at the hearing and the matters it had noted at the inspection.

Findings of fact

14. The Tribunal makes the following findings of fact:

- The Property is a top floor flat in a traditional 4-storey tenement building. It is known as 70H Paisley Road and also as Flat 03/02, 70 Paisley Road.
- The Tenant is tenant of the Property, in terms of a Minute of Lease which commenced on 1 December 2015 for a period of six months to 1 May 2016.
- The Tenant confirmed at the inspection that the front door lock is now working.
- The electric socket for the cooker is hanging off the wall.
- The sofa is in a very poor state of repair.
The windows are not wind and water tight. Daylight could be seen between the window casing of the living room bay window and the external stonework surrounding it.
- There is no fixed form of heating in the Property.
- The washing machine is broken.

Reasons for the decision

15. The Tribunal is satisfied that the front entrance door lock of the Property is working. The door entry system is not, however, functioning.
16. The cooker socket hanging off the wall represents an imminent and ongoing potential danger to life and the Tribunal decided that it would require to see a satisfactory up to date Electrical Installation Condition

Report in respect of the entire electrical installation and Portable Appliance Tests for every appliance in the Property, including the cooker, fridge/freezer, microwave oven and the washing machine, which is currently broken.

17. The sofa is in such a poor state of repair that it will have to be replaced with one that is in a reasonable state of repair and meets current fire safety requirements.
18. Repair work is required to make the windows wind and water tight.
19. The Tribunal is of the view that, as there is currently no form of heating in the Property, the Landlord must provide a fixed form of heating, whether electric or gas, to provide heating throughout the Property.
20. The Tribunal noted that the smoke and heat detectors in the Property (namely battery-operated detectors in the living room and hallway) do not comply with the Scottish Government's Building Standard Division Revised Domestic Technical Handbook 2013 and would recommend that the Landlord attends to this as a matter of urgency.
21. The Tribunal felt that a period of eight weeks was a reasonable timescale for carrying out the works required by the Repairing Standard Enforcement Order, but expects the Landlord to act upon an undertaking given by the Landlord's representative at the hearing that immediate steps would be taken to deal with the electrical problems.
22. The decision of the tribunal was unanimous.

Right of Appeal

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.

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on which the appeal is abandoned or so determined.

G Clark

Signed

Date: 30 October 2018

..... Legal Member/Chairperson

This is the Schedule of Photography
referred to in the foregoing
Statement of Design
G Clark

(Leg 20 photo/Clark
30 October 2017

Housing and Property Chamber
First-tier Tribunal for Scotland



Inspection - Photograph Schedule
70H Paisley Road, Renfrew, PA4 8EX

Case Reference: FTS/HPC/RP/18/1779

Date of inspection: 30/10/2018

Time of inspection: 10.00 am

Weather conditions: Dull and overcast

Present: Mr George Clark – Legal Member
Mr Nick Allan – Ordinary Member
Mr John McLean – Tenant
Mr Tahir Bashir – Landlords Agent



Photo 1 – Front elevation



Photo 2 – Functioning door locks



Photo 3 – Unsafe cooker connection



Photo 4 – Damaged and broken sofa



Photo 5 – Defective windows



Photo 6 – Expired washing machine



Photo 7 – Expired electric heater



Photo 8 – Bathroom in poor condition



Photo 9 – Kitchen area in living room



Photo 10 – Bedroom



Photo 11 – Batt. operated alarm in L/R

Nick Allan FRICS
Surveyor – Ordinary Member
First-tier Tribunal
Housing and Property Chamber - 12th November 2018