

Housing and Property Chamber First-tier Tribunal for Scotland



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

Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006 Section 24

Chamber Ref: FTS/HPC/RT/18/0726

Title no/Sasines Description: REN96323

Property at: 7 Quarry Road, Paisley PA2 7RD (“the property”)

The Parties:-

Ms Leana Zaccarini, 7 Quarry Road, Paisley PA2 7RD (“the tenant”)

Mr David Blackwood, 15/1 Carriagehill Drive, Paisley PA2 6JG (“the Landlords”)

Renfrewshire Council, Renfrewshire House, Cotton Street, Paisley PA1 1BR (“the third party applicant”)

Whereas in terms of their decision dated 4 July 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”) and in particular that the landlord has failed to ensure that:-

- (a) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order;
- (b) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
- (c) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health;

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:-

- (a) Carry out such works as are necessary to ensure that there is an acceptable provision for detecting fires and for giving warning in the event of fire or suspected fire.
- (b) To carry out such works as are necessary to ensure that there is an acceptable provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
- (c) To instruct and obtain a gas safety certificate which report should be carried out by a suitably qualified and registered gas engineer and carry out such works as is necessary to rectify any identified issue and provide the tribunal with a report from a

suitably qualified and registered gas engineer confirming that the works are completed.

- (d) To instruct a certified electrical installation condition report and portable appliance test which report should be carried out by a suitably qualified and registered SELECT or NICE electrical contractor, to carry out such works as are necessary to rectify any identified issues in the electrical wiring system and provide the tribunal with a report from a suitably qualified and registered SELECT or NICE electrical contractor confirming that the works are completed.
- (e) To instruct a suitably qualified tradesman to investigate the cause of dampness in the property, particularly in the kitchen and shower room and to provide a report to the tribunal, to carry out any works recommended by the report and provide evidence that the works have been completed satisfactorily in order to show the house is wind and watertight and in all other respects reasonably fit for human habitation.

The tribunal orders that the works specified in this order must be carried out and completed within a period of twenty eight days from the date of service of this notice.

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.

In witness whereof these presents type written on this and the preceding page(s) are executed by Mark Richard Thorley, Solicitor, Solicitor, Thorley Stephenson SSC, 20 Hopetoun Street, Edinburgh, EH7 4GH, chairperson of the tribunal at Edinburgh on 10 July 2018 before this witness:-

M Thorley

-L Hogg_____ witness

_____ chairperson

LOUISE HOGG name in full

16 SEVENTH Address

STREET

NEWTONGRANGE

Housing and Property Chamber First-tier Tribunal for Scotland



PHOTOSHEET



Property: 7 QUARRY ROAD, PAISLEY, PA2 7RD

Ref no: FTS/HPC/RP/18/0726

Tribunal: Mark Thorley and David Godfrey

Inspection: The property was inspected at 11.30 am Monday 18th June 2018.

Access: The Tenant, Ms Leana Zaccarini was present and provided access to the property.

The Landlord, Mr David Blackwood was neither present nor represented.

The Third Party Applicant, Renfrewshire Council was represented by Elaine McIntosh

Photographs

1. Hall Smoke Detector
2. Kitchen Ceiling (No Heat Detector)
3. Living Room Ceiling (No Smoke Detector)
4. Central Heating Boiler (No Landlords Gas Safety Certificate available and no CO detector nearby)
5. Dampness in Kitchen (1)
6. Dampness in Kitchen (2)
7. Shower Lining
8. Fusebox



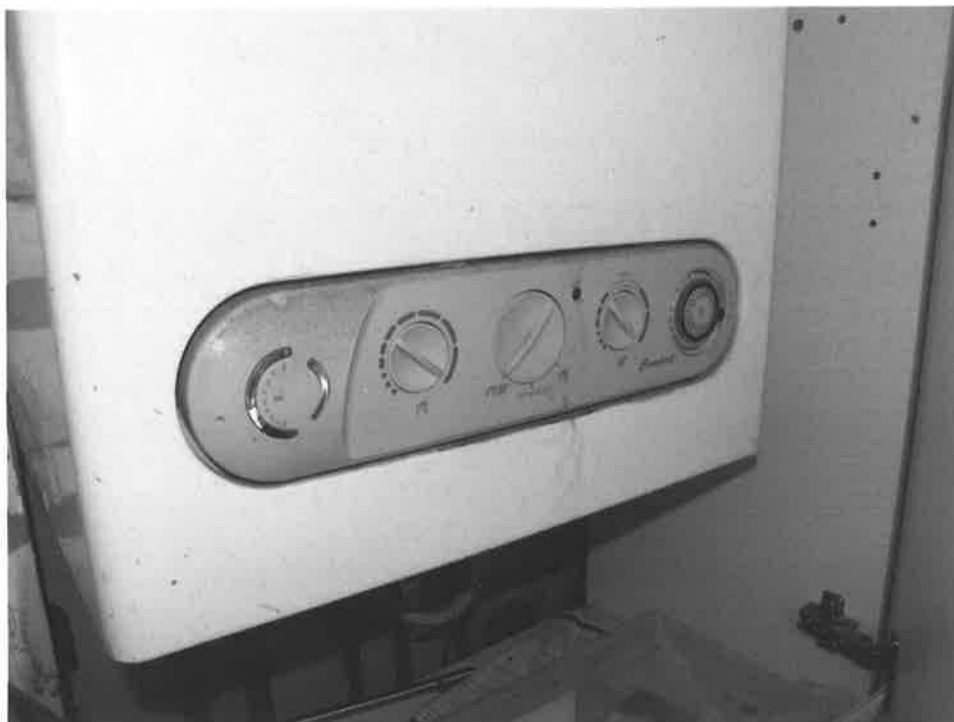
Hall Smoke Detector



Kitchen Ceiling (No Heat Detector)



Living Room Ceiling (No Smoke Detector)



Central Heating Boiler (No Landlords Gas Safety Certificate available and no CO detector nearby)



Dampness in Kitchen (1)



Dampness in Kitchen (2)



Shower Lining



Fusebox

David Godfrey, MRICS

18th June 2018

Housing and Property Chamber First-tier Tribunal for Scotland



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

Decision: Housing (Scotland) Act 2006 Section 24(1)

Chamber Ref: FTS/HPC/RT/18/0726

Title no/Sasines Description: REN96323

Property at: 7 Quarry Road, Paisley PA2 7RD (“the property”)

The Parties:-

Ms Leana Zaccarini, 7 Quarry Road, Paisley PA2 7RD (“the tenant”)

Mr David Blackwood, 15/1 Carriagehill Drive, Paisley PA2 6JG (“the Landlords”)

Renfrewshire Council, Renfrewshire House, Cotton Street, Paisley PA1 1BR (“the third party applicant”)

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 duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (‘the Act’) in relation to the property, determined that the landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Act.

The tribunal consisted of –

Mark Thorley, Legal Member
David Godfrey, Ordinary Member

Background

1. By application received on 28 March 2018, the third party applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) 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 third party applicant considered that the landlord had failed to comply with the duty to ensure that the property meets the repairing standard and in particular that the landlord had failed to ensure that –

- (a) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order (as required by Section 13(1)(c) of the Act);
- (b) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

The third party applicant attached details of the following complaints to the application –

- (i) There was no smoke alarm in the living room.
 - (ii) There was no heat detector in the kitchen.
 - (iii) There was no carbon monoxide detector in the kitchen.
 - (iv) There was no gas safety certificate.
 - (v) There was no electrical installation condition report.
 - (vi) There was water damage in both the bathroom and kitchen.
3. By Minute dated 10 April 2018 a convenor of the tribunal with dedicated powers under Section 23A of the Act, intimated a decision to refer the application under Section 23(1) of the Act to a tribunal for determination.
 4. The tribunal served a notice of referral under and in terms of schedule 2, paragraph 1 of the Act upon the landlord, the tenant and the third party applicant on 11 May 2018. An inspection of the house and hearing were fixed for 18 June 2018.
 5. Following service of the notices, no representations were received from any of the parties.

The Inspection

1. The tribunal inspected the property on the morning of 18 June 2018. The weather conditions were dry and overcast.
2. The property is a lower flatted dwelling in a block of four dwellings. The property comprises of one bedroom, living room, kitchen and bathroom.
3. The tenant Ms Leana Zaccarini was present at the inspection. Mrs Elaine McIntosh from Renfrewshire Council as a representative of the third party applicant also attended. The landlord did not attend. Photographs were taken and are attached as a schedule to this decision.

The Hearing

1. Following inspection of the property the tribunal held a hearing at Glasgow Tribunals Centre, Room 110, 20 York Street, Glasgow G2 8GT. The third party applicant was represented by Mrs Elaine McIntosh. Neither the tenant nor the landlord attended.
2. The tribunal considered the issues in the following order –
 - (i) No smoke detector in the living room.

It was noted at the inspection that there was no smoke detector in the living room.

- (ii) Heat detector in the kitchen.

It was established that there was no heat detector in the kitchen.

- (iii) Central heating boiler.

It was noted there was no gas safety certificate nor was there a carbon monoxide detector in the kitchen.

- (iv) Electrical installation condition report.

It was noted that there was no electrical installation condition report made available.

- (v) Dampness in the kitchen and shower room.

It was noted that works had been undertaken to the shower room. However there appeared to be an issue with this such that water appeared to be penetrating and causing dampness in both the shower lining and in the kitchen itself.

Summary of Issues

The issue is to determine whether the house meets the repairing standard as laid down in Section 13 and whether the landlord has complied with the duty imposed by Section 14(1)(b).

Findings in Fact

The tribunal finds the following facts to be established –

- (a) The tenant entered into a short assured tenancy with the landlord with a commencement date of 19 August 2016.
- (b) The landlord is the registered owner of the property. The landlord's title is registered in the Land Register at REN96323.
- (c) The third party applicant notified the applicant by letter dated 5 September 2017 of all the repairs issues detailed in the application.

The tribunal at the inspection on 18 June 2018 carefully checked the items which were subject to the complaint and observed the following –

- (i) There was no smoke detector in the living room.
- (ii) There is no heat detector in the kitchen.
- (iii) There is no landlord's gas safety certificate.

- (iv) There is no carbon monoxide detector nearby to the central heating boiler.
- (v) There is no electrical installation condition report.
- (vi) There is dampness in the kitchen and in the shower lining.

Reasons for Decision

The tribunal determined that a period of time had elapsed since notification of the required repairs to the landlord and works have not been undertaken. The tribunal considered each of the complaints made by the third party applicant in this application and determined as follows

1. There was no smoke detector in the living room.
2. There is no heat detector in the kitchen.
3. There is no landlord's gas safety certificate.
4. There is no carbon monoxide detector nearby to the central heating boiler.
5. There is no electrical installation condition report.
6. There is dampness in the kitchen and in the shower lining.

Decision

1. The tribunal having determined that there was a failure to comply with the repairing standard.
2. The tribunal has determined that the landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Act.
3. The tribunal proceed to make a repairing standard enforcement order as required by Section 24(1).
4. The decision of the tribunal was unanimous.

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.

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M Thorley

----- Legal Member

6.7.18
----- Date