

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Section 24

Chamber Ref: FTS/HPC/RT/23/0817

33 Selkirk Avenue, Glasgow, G52 3EL (“the Property”)

The Parties:-

**Glasgow City Council, Exchange House, 231 George Street, Glasgow, G1 1RX
 (“the Third Party Applicant”)**

**Mr Ronald Edgar and Ms Nicola Bytheway, 33 Selkirk Avenue, Glasgow, G52
 3EL (“the Tenants”)**

Mr Gerald Cannon, 2 Langlook Crescent, Glasgow, G53 7NR (“the Landlord”)

Tribunal Members:

**Mr Martin McAllister, Solicitor (Legal Member) and Mr Mike Links, Chartered
 Surveyor (Ordinary Member)**

Decision

**The tribunal made a repairing standard enforcement order in terms of Section
 24(2) of The Housing (Scotland) Act 2006.**

Background

1. By application dated 15th March 2023, the Third Party Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland 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 as amended (the 2006 Act). The application is in terms of Section 22 (1) of the 2006 Act
2. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: that the Property is not wind and watertight and in all other respects reasonably fit for human habitation, that fixtures, fittings and appliances supplied by the Landlord under the tenancy are not in a

reasonable state of repair and in proper working order and that the Property did not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

3. On 9th February 2023, the Third Party Applicant had notified the Landlord of matters requiring repair:
 - 3.1 Roofing issues/ water ingress requires investigation.
 - 3.2 Signs of damp and mould throughout the Property.
 - 3.3 Kitchen cupboard affected by damp issue requires repair or replacement.
 - 3.4 A jammed window in the room adjoining the living room requires to be repaired or replaced.
 - 3.5 The stair at the entrance to the Property requires to be repaired or replaced.
 - 3.6 The fan in the bathroom fills with water and causes water ingress and requires to be repaired or replaced.
 - 3.7 The broken carbon monoxide monitor requires to be replaced.
4. On 27th March 2023, a Notice of Acceptance was issued by a legal member of the Tribunal acting under delegated powers of the Chamber President.
5. Prior to the tribunal inspecting the Property, it received intimation of certain works being carried out to the Property.

Property Inspection

6. The members of the tribunal inspected the Property on 15th March 2023 and a copy of the ordinary member's schedule of photographs is attached to this Decision. The inspection followed a long spell of dry weather.
7. Neither the Landlord nor the Third Party Applicant were present or represented. The Tenants were present.
8. The Property is an upper cottage three bedroom flat probably constructed around 1935.
9. It was noted that the Landlord had refitted the kitchen.
10. The Tenants reported that work had been done to the bathroom fan and that there was no water ingress.
11. The Tenants reported that the carbon monoxide detector had been replaced. It was tested and found to be functioning.
12. The members of the tribunal tested the smoke detectors in the living room and hall and the heat detector in the kitchen. All were found to be functioning although the smoke detector in the hall was not interlinked with the other two detectors.

13. The steps to the front door are formed from concrete slabs. There are three steps and a slab on the second step was found to be loose.
14. The roof is pitched, timber framed and tiled. The covering appears to be predominantly in asbestos tiles with a new section of tiling on the hip slope where a chimneyhead has been removed. The original tiling which appears to date from the Property's construction appears to require attention. In addition, signs of lamination were observed on ridge tiles. Staining in the living room ceiling is indicative of damp penetration.
15. The hatch to the roof void was opened but inspection of the attic was severely restricted due to an electric conduit traversing the hatch opening. Inspection was also hindered by stored articles. Fibreglass insulation laid between the joists is less than the desired thickness of 275 mm or thereby
16. Mould staining was found in the ceilings in the front bedroom, bedroom and kitchen and the wall of the bedroom. No positive damp readings were found.
17. The Tenants reported that the chimney had been removed. Positive damp readings were found in the chimneybreast wall of the living room.
18. The Tenants reported that the window in the bedroom leading from the living room had not been repaired and that it could not be opened effectively. It was noted that the seal in the window had failed and that there was consequential misting. The tribunal did not test the window because of the possibility of it being damage more.

19. Findings in Fact

- 19.1 The Tenants and Landlord are parties to a tenancy for the Property.
- 19.2 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of suspected fire. A smoke detector in the hall is not linked to the smoke detector in the living room and the heat detector in the kitchen.
- 19.3 The carbon monoxide detector is functioning.
- 19.4 There is dampness in the Property.
- 19.5 The roof of the Property is in poor condition with tiling and ridge tiling requiring attention.
- 19.6 The kitchen cupboards are in a satisfactory condition.
- 19.7 The window in the bedroom leading from the living room is defective.
- 19.8 There is a loose slab at the steps leading to the entrance to the Property.
- 19.9 The bathroom fan shows no signs of water ingress.
- 19.10 There is mould present on the ceilings and walls of the Property.
- 19.11 There is evidence of dampness at the chimney breast wall in the living room.

Reasons

20. The tribunal relied on the evidence of the Tenants which it found to be credible.

21. The tribunal relied on what it had found at the Property when it carried out the inspection.

Disposal

22. The tribunal determined that a repairing standard enforcement order (RSEO) be made in the following terms;

The Landlord is required to:



1. Repair the window in the bedroom leading from the living room so that it opens and closes in a safe and efficient manner.
2. Repair the steps at the entrance of the Property to ensure that they are safe to the Tenants and others entering or exiting the Property.
3. Ensure that the smoke detector in the hallway of the Property is properly interlinked with the smoke detector in the living room and the heat detector in the kitchen.
4. Instruct a reputable roofing contractor to carry out an inspection of the roof and rainwater goods of the Property and provide a report. The Landlord is thereafter to carry out any work recommended in the report and to ensure that the roof is wind and watertight. Any work undertaken requires to have regard to the possibility that a licensed asbestos contractor may be required to oversee and deal with removal of tiles. A copy of the report is to be provided to the Tribunal prior to any necessary repairs or renewals being instructed by the Landlord.
5. Instruct a reputable damp specialist to carry out an inspection of the Property to address the issues of dampness at the chimney breast wall in the living room and the mould occurring throughout the Property as identified in this Decision, and thereafter to undertake any works which are recommended. A copy of the report is to be provided to the Tribunal prior to any necessary repairs or renewals being instructed by the Landlord.

The Landlord is required to comply with the RSEO by 15th September 2023.

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.



Martin J. McAllister,
Solicitor, legal member of
Tribunal.
14th June 2023