

Housing and Property Chamber
First-tier Tribunal for Scotland



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

STATEMENT OF DECISION OF THE TRIBUNAL UNDER SECTION 24(1) OF THE
HOUSING (SCOTLAND) ACT 2006

Case Reference FTS/HPC/RP/23/3326`

Property at 25 Douglas Crescent, Hamilton ML3 7SQ ("the Property"), being the subjects registered in the Land Register of Scotland under Title Number LAN158629.

The Parties: -

Miss Ann Brannan, residing at 25 Douglas Crescent, Hamilton ML3 7SQ ("The Tenant"),

And

Mr Michael Hyrons, residing at 1 Clydesdale Place Hamilton, ML3 7TE and Ms Marie Hyrons, residing at 39 Sunnyside Street, Larkhall ML3 1DG ("The Landlords")

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 Landlords have complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act, and has determined to make a Repairing Standard Enforcement Order ("RSEO").

The Tribunal comprised: -

Mr. Andrew Cowan, Legal Member, and
Ms. Lori Charles, Ordinary Member (Surveyor)

Background

1. By application dated 20th September 2023 (hereinafter referred to as "the Application") the Tenant applied to the Tribunal for determination as to whether the Landlords had

failed to comply with the duties imposed by section 14(1)(b) of The Housing (Scotland) Act 2006.

2. The Application stated that the Tenant considered that the Landlords had failed to comply with the duty to ensure the House meets the Repairing Standard and that the Landlord had failed to ensure compliance with section 13(1) of the Act.
3. The Tenant provided within the Application details as to why she considered that the Landlords had failed to meet the Repairing Standard. By letter, posted to the Landlords on 26th August 2023, the Tenant had intimated to the Landlords a list of defects which the Tenant considered the Landlords required to repair in order to bring the Property up to the Repairing Standard.
4. The Application was accepted by the Chamber President on 3rd November 2023 and was referred for this Tribunal's consideration.
5. Following an adjournment of an earlier hearing, the Tribunal intimated to all parties that they would inspect the property on 5th April 2024 at 10am. Parties were advised that a hearing would then be held at 12:15 on the same date at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT.

Property Inspection

6. The Tribunal inspected the property on 5th April 2024. The Tenant was present at the time of the inspection. She was accompanied at the inspection by her son. Both Landlords also attended the inspection. Photographs were taken during the inspection by the Tribunal. Copies of the photographs taken by the Tribunal, together with a summary of the Tribunal's general observations at the inspection, are attached as a schedule to this decision.

The Hearing

7. A hearing in relation to the Application was held 5th April 2024 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT.

The Tenant did not attend the hearing. The Tenant was represented at the hearing Mr. Jordan Bird of Hamilton Citizens Advice Bureau, 67 Almada Street, Hamilton.

Both the Landlords also attended the hearing.

8. At the start of the hearing the Tribunal outlined their observations from their inspection of the property. By reference to the specific list of complaints raised by the Tenant in relation to each room in the property, the Tribunal had noted: -

Living Room

- a) The electrical socket in this room had been repaired by the Landlord.
- b) The windows in this room were in a reasonable state of repair and in proper working order. The Tribunal had noted that parts of the window seals were worn and would require attention, but there was no evidence of significant draughts from these windows.

Kitchen

- c) The electrical socket in this room had been repaired by the Landlord.
- d) The flooring in the space provided for a washing machine in the kitchen had been repaired. It was in a reasonable state of repair.
- e) There was no evidence of rodents in the oven in the kitchen.

Hallway

- f) The Tribunal noted that repairs had been carried out to the flooring and lower stairs within the Property. The flooring in these areas was now in a reasonable state of repair.
- g) The Tribunal noted that there were no significant draughts from around the front door of the Property. Draught excluders had recently been fitted to the door by the Landlords. The locking mechanism of the front door was found to be faulty, but that was not a matter which had been specifically raised by the Tenant in the Application.

Bathroom

- h)* The Tribunal noted that the extractor fan in the bathroom was broken and not operational. The extractor fan is a fitting provided by the Landlords under the tenancy between the parties and it is not in a reasonable state of repair or in proper working order.
- i)* The Tribunal noted that part of the flooring on the landing immediately outside the bathroom door was loose. As a result, the flooring is uneven and presents a potential tripping hazard. That part of the flooring was not in a reasonable state of repair and requires to be repaired.

Front Bedroom

- j)* The Tribunal noted that there was evidence of historic water ingress into the front bedroom of the Property. The Tribunal tested the walls of the room (and the cupboards within the room) for dampness using a damp meter. There was no evidence of continuing water ingress or dampness within that room of the Property. The Tribunal noted that there was evidence of water staining and small holes in the ceiling of the room which were likely related to previous water ingress into the Property. The Tribunal did not consider these issues to be significant.
- k)* The gas boiler for the Property is located in a cupboard in the Front Bedroom. The Landlords have supplied a CO2 detector. That detector has not been affixed to the wall of the room in compliance with current regulations. The detector requires to be correctly located and until that work is completed the Property does not have an adequate system for the detection of carbon monoxide.

Rear Bedroom

- l) The Tribunal noted that there was evidence of historic water ingress and dampness in the rear bedroom of the Property. The Tribunal tested the walls of the room for dampness using a damp meter. There was no evidence of continuing water ingress or dampness within that room of the Property.

Loft

- m) The Tribunal carried out a limited inspection of the loft/roof space of the Property. It was observed that in certain sections of the roof the timber sarking and roof membrane had been damaged due to water ingress. This disrepair was likely to allow water ingress into the Property. The Tribunal did not consider that the roof of the Property was in a reasonable state of repair for this reason.
- n) The Tribunal was not satisfied that there was any evidence of woodwork on the beams in the loft of the Property.

Steps leading to backdoor

- o) The Tribunal noted that repairs had been carried out to the external stone steps leading to the back door of the Property. The steps were now in a reasonable state of repair.
9. The Landlords and the Tenant's representative accepted the Tribunal's observations and did not seek to challenge their views following the inspection. Whilst the Landlords have carried out certain works to the Property since the date of the Application, they confirmed that they recognised that some minor works were required to repair the issues identified by the Tribunal and to bring the property up to the Repairing Standard.

Findings in Fact

- 10. Having viewed the Property and having considered the available evidence which had been made available, the Tribunal make the following findings in fact.

- a) The Landlords and the Tenant are parties to a tenancy agreement in respect of the Property at 25 Douglas Crescent, Hamilton ML3 7SQ .
- b) Although the Tenant has given notice to the Landlords that she intends to leave the Property by 12th April 2024, the Tenancy has not, as at the date hereof, been terminated.
- c) The extractor fan in the bathroom of the Property is a fitting provided by the Landlords under the tenancy between the parties and it is not in a reasonable state of repair or in proper working order.
- d) Part of the flooring on the landing immediately outside the bathroom door is loose. That part of the flooring is not in a reasonable state of repair.
- e) The CO2 detector in the front bedroom of the Property has not been affixed to the wall of the room in compliance with current regulations
- f) Within the loft of the Property certain section of the roof the timber sarking and roof membrane had been damaged due to water ingress. The roof of the Property is not in a reasonable state of repair.
- g) The Tenant has notified the Landlord of the requirement to carry out necessary repairs to the Property. The Landlords have failed to carry out such repairs as are necessary to rectify the issues identified by the Tenant.
- h) The Property does not currently meet the Repairing Standard and in particular the Landlord has failed to comply with subsections (a), (b), and (d) of Section 13(1) of the Act.
- i) The Property does not meet the Tolerable standard as required by subsections (h), of Section 13(1) of the Act and section 86 of the Housing (Scotland) Act 1987. In

particular, the Property does not have a correctly fitted carbon monoxide alarm in compliance with current regulations.

Reasons for Decision

11. Having inspected the Property and having considered the evidence by provided by the parties, the Tribunal were satisfied that the Property does not meet the Repairing Standard.

Decision

12. The Tribunal accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
13. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act. The Tribunal determined to require the Landlord to: -
 - a. Repair or replace the extractor fan in the bathroom of the Property so that it is in a reasonable state of repair and in proper working order.
 - b. Repair or replace the flooring on the landing immediately outside the bathroom door of the Property so that it is in a reasonable state of repair.
 - c. Locate the CO2 detector in the front bedroom of the Property so that it is fully functioning and meets current regulatory standards
 - d. Repair those sections of the roof timber sarking and roof membrane within the loft of the Property which have been damaged due to water ingress, so that the roof of the Property is in a reasonable state of repair.
14. The Tribunal order that the works specified in the RSEO must be carried out and completed by 10th May 2024.
15. The decision of the Tribunal is unanimous.

Right of Appeal

16. A Landlord, tenant or third-party applicant aggrieved by the decision of the Tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

Right of Appeal

17. 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.

A Cowan

Chairperson
Andrew Cowan

Date 5th April 2024

Housing and Property Chamber First-tier Tribunal for Scotland



Pre-hearing inspection summary and schedule of photographs



Property 25 Douglas Crescent Hamilton ML3 7SQ

Ref No: FTS/HPC/RT/23/3326

Tribunal members Mr Cowan Legal member and Ms Charles Ordinary member
(Surveyor)

Purpose of inspection

The purpose of the inspection is to prepare a record of the position at the property, specifically as it relates to the items raised in the application and any issues arising therefrom.

Access

The above Tribunal Members attended the property at 10:00am on 05/04/24. The tenant Miss Brannan gave access to the property also in attendance were Mr Hyrons and Ms Hyrons the landlords.

Lori Charles

BSC (Hons) MRICS

Ordinary (Surveyor) Member
First-Tier Tribunal for Scotland
05/04/2024

Appendix 1

Schedule of photographs taken during the inspection on 05/04/24

Hall



Draught from front door, new seal has been fitted no draught noted at time of inspection. Loose floorboards on stairs have been repaired.

Living Room



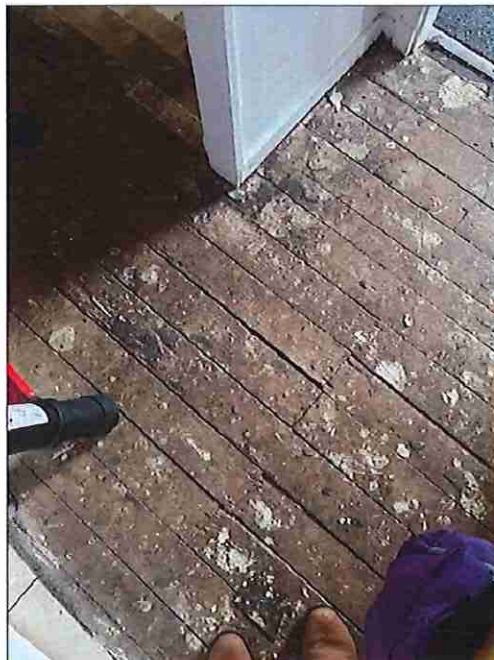
On inspecting the window for draughts, it was noted that a section of the window gasket had perished.

Kitchen



Broken socket in kitchen replaced. Crumbled flooring temporary repair noted.

Bathroom and hall



Bathroom - Mechanical extract fan is broken.

Hall- Floorboards loose top landing.

Front bedroom



Hole in bedroom ceiling noted – Caused by historic water ingress.

A medium moisture reading was noted in one section of the cupboard all other areas are well within the normal range.



Carbon monoxide monitor has been replaced but not fitted as per guidance.

Ceiling mounted and positioned at least 300 mm from any wall, or wall mounted and positioned at least 150 mm below the ceiling and higher than any door or window in the room.

Carbon monoxide detectors in the space containing the combustion appliance should be sited between 1 m and 3 m from the appliance. Note: where the combustion appliance is located in a small space it may not be possible to locate the detector within that space. In such circumstances the detector may be located at the appropriate distance out with the space.

Back bedroom



Evidence of historic water ingress visible. No high moisture readings noted on ceiling, walls or in fitted wardrobe.

Loft



Water ingress both historic and more recently is visible.

Two areas of sarking and sections of the roof membrane appear to be missing and day light is visible.



Access to the loft space was limited due to loft insulation covering the loft joists. Unable to identify any woodworm, landlord has advised woodworm has been recently treated by a contractor.

External stair to garden



Stairs have been repaired and no holes noted.