

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)

Reference number: FTS/HPC/RP/23/2895

Re: Property at 7 Old Schoolhouse Lane, Houston, PA6 7JB (“the Property”)

Title Number: REN737600

The Parties:

Sheila Hickinbottom, residing at 7 Old Schoolhouse Lane, Houston, PA6 7JB (“The applicant”)

Thomas Stewart, residing at Welling Farm, Kilallan Road, Houston, PA 6 7HQ,

Ms Lorna Carruth, residing at Heathfield, Horsewood Road, Bridge of Weir, PA11 3AU, and

Ms Irene Stewart, residing at Upper Side, Temple, Gorebridge, Midlothian (“the Landlord”)

Tribunal Members:

Paul Doyle (Legal Member)

Nick Allan (Surveyor Member)

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) in relation to the house concerned, and taking account of the evidence submitted by the applicant, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. On 21 August 2023 the applicant submitted Form A asking for a Repairing Standard Enforcement Order on the basis that the property fails to meet the Repairing Standard.

2. The applicant supplemented her application with a copy letter from the local authority to one of her landlords, dated 20 April 2023, and a letter to all of her landlords, dated 26/11/2023, providing greater specification of her claim. The applicant says that the respondent 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 house is wind and watertight and in all other respects reasonably fit for human habitation in terms of Section 13(1)(a) of the 2006 Act;
- (b) The structure and exterior of the house (including drains, gutters and external pipes) is in a reasonable state of repair and in proper working order in terms of Section 13(1)(b) of the 2006 Act;
- (c) 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 are in proper working order in terms of Section 13(1)(c) of the 2006 Act;
- (d) The fixtures and fittings provided by the respondent under the tenancy are in a reasonable state of repair and are in proper working order in terms of Section 13(1)(d) of the 2006 Act;

3. On 13 December 2023 the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal.

4. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord, the Applicant, and the Tenant on 8 February 2024.

5. Tribunal members inspected the Property at 10am on 21 March 2024. The Tenant was present. The Landlord was neither present nor were they represented. During the inspection on 21 March 2024, the surveyor member took photographs of the property. A schedule of those photographs is annexed hereto.

6. Following the inspection of the Property the Tribunal held a hearing at Glasgow Tribunal Glasgow Tribunals Centre, 20 York St, Glasgow G2 8GT at 12.00 noon on 21 March 2024. All parties attended the hearing. None of them were represented.

Summary of the issues

7. The issues to be determined are

Does the property meet the repairing standard (as defined in s.13 of the Housing (Scotland) Act 2006?)

Findings of fact

8. The tribunal finds the following facts to be established:-

(a) The landlord is the heritable proprietor of 7 Old Schoolhouse Lane, Houston, PA6 7JB ("the property"). The landlord let the property to the tenant on 11 January 2023.

(b) The property is a mid-terraced, two storey, brick & render house.. The front door opens onto a vestibule leading to a central hallway. The living room has windows to the front of the property, and patio doors, leading to an area of decking and garden ground to the rear. The ground floor has a living room, a kitchen, a bedroom, a shower-room. Stairs lead to two bedrooms on the upper floor.

(c) The property has gas central heating. All window units are double glazed.

(d) Since the application was submitted, the landlord has carried out a number of repairs to the property. Trickle vents have been fitted to each window. The lock on the front door has been repaired. The shower has been repaired. The tenant is satisfied that those repairs are effective.

(e) During the inspection, higher than average damp meter reading were taken by the surveyor member. Mould is present on many surfaces throughout the property. The surveyor member noted below surface readings indicating embedded damp in each bedroom, and in the living room, close to the patio door. Mould is also present in areas of the house, such as the rear of the living room, where embedded dampness readings were negative, but surface readings were obtained.

(f) The carpet adjacent to the patio door in the living room was wet.

(g) The wooden windowsills throughout the property are compromised. Higher than average damp meter readings were taken from each windowsill. Each of the wooden windowsills shows signs of water ingress/condensation issues.

(h) The landlord replaced at least two windows in May 2023. Even the newly replaced windows have defective seals on the glazed units.

(i) The landlord exhibited a satisfactory gas safety certificate dated September 2022.

(j) The landlord's letting agent holds an up to date EICR. On 22 March 2024 the landlord exhibited a satisfactory EICR dated 23 January 2023.

(k) The patio doors to the rear of the property open on to an area of wooden decking. The decking once had a balustrade attached. That balustrade has separated from the decking, and is hanging loosely to the rear of the decking,

(l) To the right (viewed from the front) of the property, the flashings fixed to the exterior wall of the upper floor at its junction with the ground floor have come loose. Some roof tiles on the rear elevation may be loose.

Reasons for the decision

9. (a) Tribunal members inspected this property at 10:00am on 21 March 2024. It was a cold, wet, blustery, winter's morning. The tenant welcomed tribunal members into the property and allowed tribunal members to inspect the property.

(b) The tenant told tribunal members that she has copies of an EICR from 2022 and a gas safety certificate attached to an email. (During the hearing, the landlord exhibited a satisfactory gas safety certificate dated 2022).

(c) Tribunal members could see mould staining in the corners of interior walls in the living room and three bedrooms. The surveyor member of the tribunal took damp meter readings in the areas of mould staining. He took damp meter readings around the window surrounds and the patio doors to the rear of the living.

(d) Some of the damp meter readings indicated surface condensation, but the surveyor member also detected below surface readings indicative of embedded dampness.

(e) The surveyor members observations and the damp meter readings disclose embedded dampness in the ground-floor bedroom, and in the living room. One upstairs bedroom has badly stained windowsills - indicative of water ingress from the rear pitch of the roof. Only surface readings of dampness were obtained from either side of the patio doors in the living room, but the floor adjacent to those patio doors is so wet that when the surveyor member rose after kneeling to take damp proof readings, he found that his knees were wet.

(f) There is embedded dampness on the floor adjacent to the patio doors (to the rear of the living room).

(g) Parties agree that in May 2023 some windows were replaced. The landlord paid for the replacement of three windows. The tenant is certain that only two windows were replaced.

(h) All of the windows, including the new window units, are compromised. The UPVC frames have no apparent defect. The defect is in each of the double glazed units because the seals are incomplete.

(i) On 22 March 2024 the landlord exhibited a satisfactory EICR dated 23 January 2023.

(j) To the rear of the property, the decking is damaged. The balustrade has come loose. It is separated from the wooden decking and needs to be repaired or replaced. The decking itself is showing signs of age. Reinstatement of the balustrade is necessary, but the landlord might consider overhauling the entire decking area.

(k) Parties agree that satisfactory trickle vents have been fitted to each of the window units in the property. Parties agree that the perceived defect in the front door has been remedied, and the problem the appellant originally complained about with the shower has been remedied.

(l) Tribunal members observations tell the tribunal that the property fails to meet the repairing standard. We therefore make a Repairing Standard Enforcement Order requiring the landlord to

1. (i) Instruct a suitably qualified damp specialist to prepare a survey report detailing the cause and full extent of the damp affecting the property together with a proposed specification outlining all necessary remedial action.

- (ii) Submit that report to the Tribunal for further consideration and thereafter carry out all works then required by the Tribunal as are necessary to eradicate the damp and mould from the property to ensure that the property meets the Repairing Standard.

2. Repair or replace all and any defective window seals throughout the property.

3. Repair or replace the broken balustrade surrounding the decking in the rear garden.

4. Provide the Tribunal with a current Gas Safety Certificate.

All within 42 days.

Decision

10. The tribunal accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

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

12. The decision of the tribunal was unanimous.

Right of Appeal

13. 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.

Effect of section 63

14. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed P Doyle
Legal Member

5 April 2024

Housing and Property Chamber
First-tier Tribunal for Scotland



Inspection - Photograph Schedule
7 Old Schoolhouse Lane, Houston,
PA6 7JB

Case Reference: FTS/HPC/RP/23/2895

Date of inspection: 21/03/2024

Time of inspection: 10.00 am

Weather conditions: Overcast and heavy rain

Present: Mr Paul Doyle – Legal Member
Mr Nick Allan – Ordinary Member
Mrs Sheila Hickinbottom – Tenant



Photo 1 – Front Elevation



Photo 2 – Correctly functioning front door and lock



Photo 3 – Saturated carpet at patio door



Photo 4 – Surface mould on living room wall

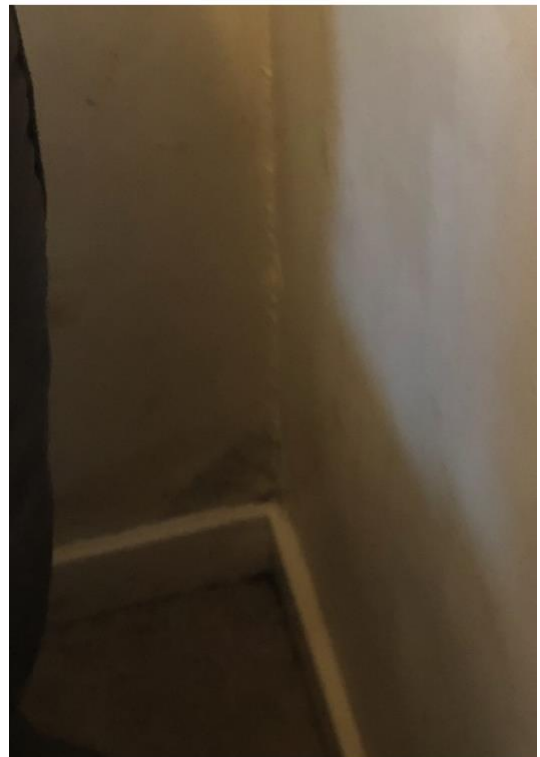


Photo 5 – Surface mould on Living room wall



Photo 6 – Water damage to upper-right bedroom sill



Photo 7 – As per photo 6

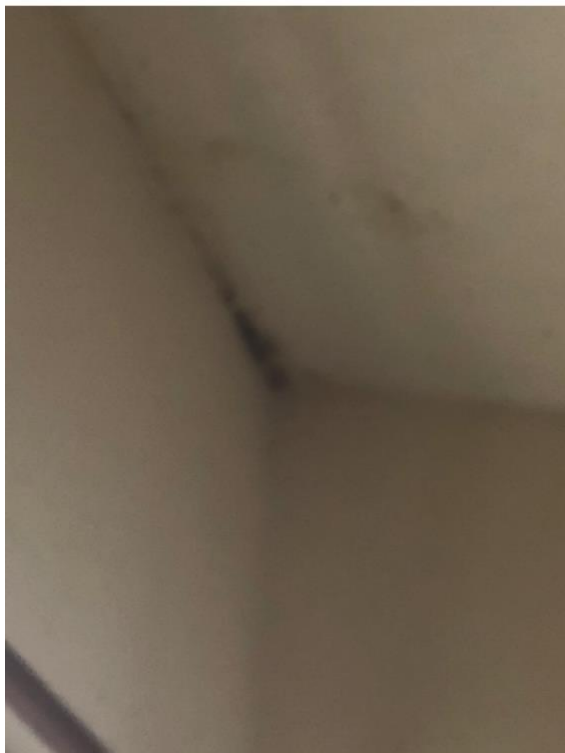


Photo 8 – Mould on upper-right bedroom ceiling



Photo 9 – Mould on upper-left bedroom ceiling

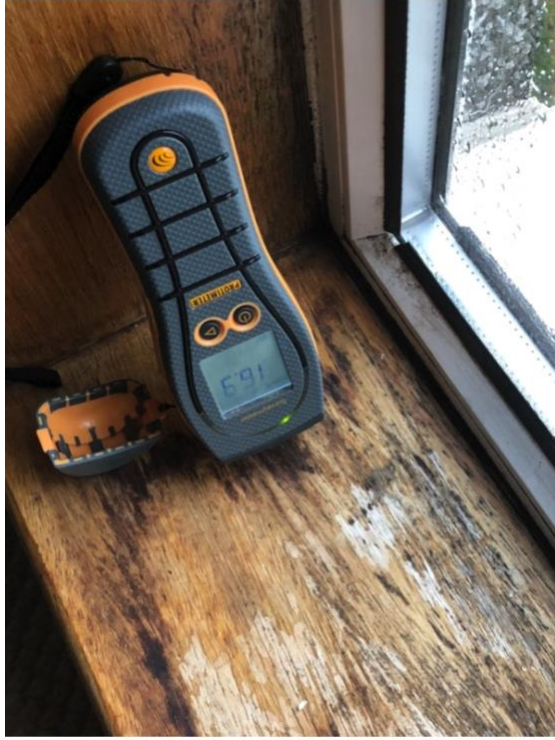


Photo 10 – Water staining/damp reading in bedroom



Photo 11 – Window seals incomplete/damaged



Photo 12 – Window seals incomplete/damaged

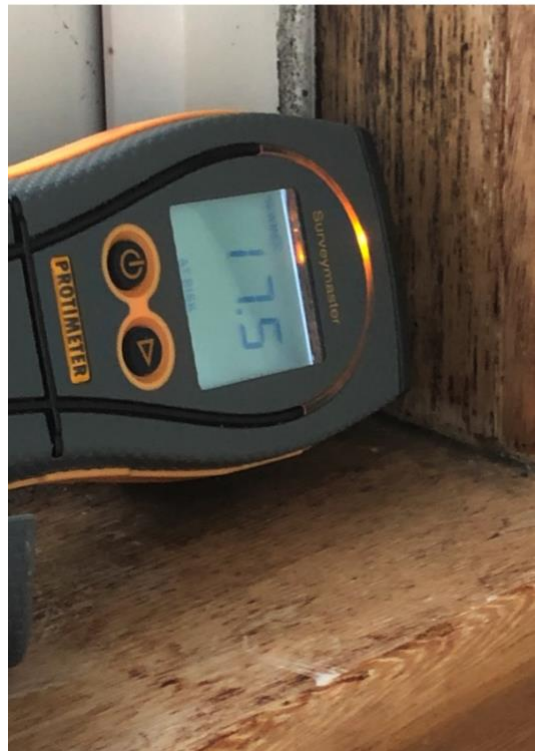


Photo 13 – Damp reading in upper-left bed. Sill



Photo 14 – Replacement shower switch near boiler



Photo 15 – Inappropriate bathroom light fitting

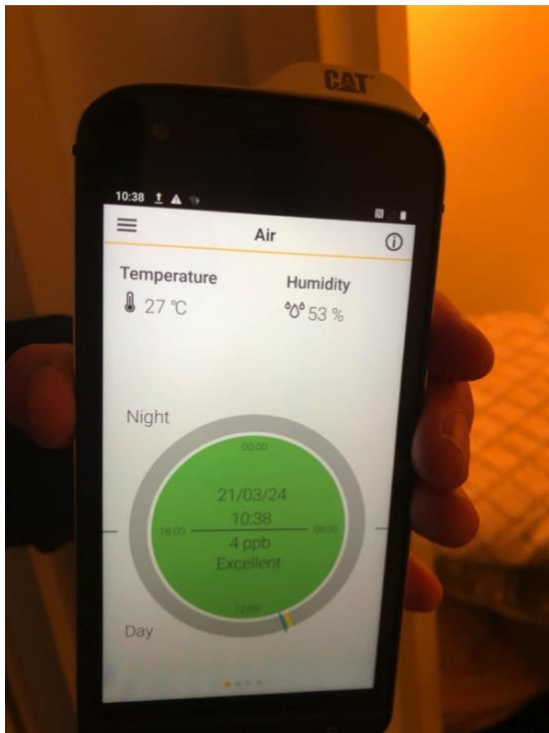


Photo 16 – Air quality reading in walk-in cupboard



Photo 17 – Dampness and mould in G/F bed.



Photo 18 – Mould on G/F Bedroom ceiling



Photo 19 – Roughcast issues front elevation



Photo 20 – Re-rendered section of wall

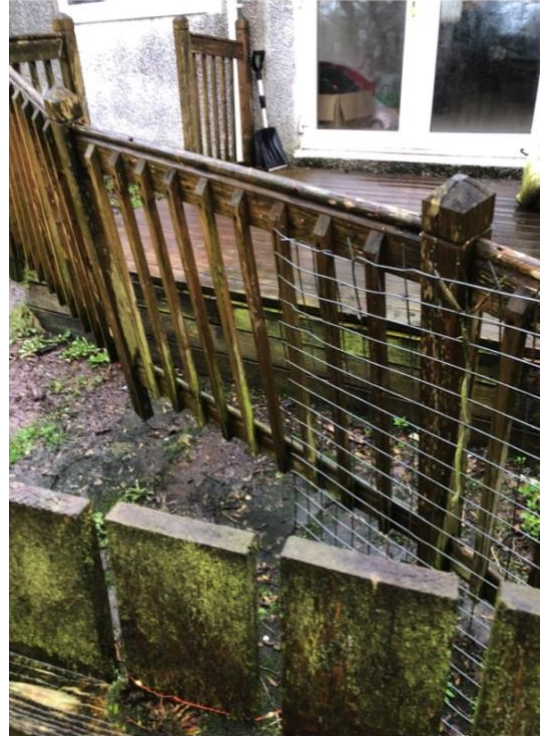


Photo 21 – Broken balustrade

Inspection notes

1. The Tribunal noted that the smoke detectors in the Living Room, Hall and Landing, together with the heat sensor in the Kitchen, were fully functioning and interconnected. The Carbon Monoxide alarm located next to the gas boiler in the kitchen was also tested and found to be in working order.

Nick Allan FRICS
Surveyor – Ordinary Member
First-tier Tribunal
Housing and Property Chamber – 5th April 2024