

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Reference number: FTS/HPC/RT/19/3628

Re: Property at Flat 3/3, 573 Cathcart Road, Glasgow G42 8SG ("House")

The Parties:

Glasgow City Council, Development Regeneration Services – Private Housing, 2nd Floor, 231 George Street, Glasgow G1 1RX ("Third Party Applicant")

Mrs Cristina Fechete, Flat 3/3, 573 Cathcart Road, Glasgow G42 8SG ("Tenant")

Mrs Manjit Kaur, 4 Beckfield Walk, Glasgow G33 1SU ("Landlord")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Joan Devine (Legal Member); Geraldine Wooley (Ordinary Member)

DECISION

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 ("Act") in relation to the House and taking account of all the available evidence determines that the Landlord has failed to comply with the duty imposed on her by Section 14(1)(b) of the Act. The Tribunal therefore issues a repairing standard enforcement order. The Tribunal's decision is unanimous.

Background

1. By application dated 11 November 2019, the Third Party Applicant applied to the Tribunal for a determination that the Landlord had failed to comply with her duties under Section 14(1) of the Act.
2. In the application, the Third Party Applicant stated that they believed that the Landlord had failed to comply with her duty to ensure that the House met the repairing standard as set out in Sections 13(1)(d), (f) and (g) of the Act. The application stated that the Landlord had failed to ensure that:

- 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, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order
 - the House has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fires
 - the House has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health
3. The Third Party Applicant made the following complaints in the application and in the notification communications to the Landlord :
- landlord requires to install hardwired / interlinked smoke detectors and CO monitor
 - broken window in kitchen to be replaced
 - shower screen / curtain to be provided
4. On 18 December 2019, the Convener of the First-tier Tribunal for Scotland (Housing and Property Chamber) issued a Notice of Acceptance stating that he considered the application paperwork comprising documents received between 11 November and 5 December 2019 and considered that no further documents or information was required before the application could be accepted for determination by the Tribunal.
5. The Clerk to the Tribunal wrote to the Third Party Applicant, the Tenant and the Landlord on 8 January 2020 notifying them under and in terms of the Act of the decision to refer the application under Section 22(1) of the Act to a Tribunal and that an inspection and a hearing would take place on 14 February 2020.

The Inspection

6. The Tribunal inspected the House on the morning of 14 February 2020. The weather conditions at the time of the inspection were wet and dull. The Tenant was present at the House during the inspection along with a gentleman who said he was her brother in law. Neither the Landlord or the Third Party Applicant was present or represented at the inspection. Photographs were taken during the inspection and are attached as a Schedule to this decision.

The House

7. The House is a self-contained third floor flat within a four storey traditionally built sandstone tenement. With the exception of a unit on the ground floor to the left of the close entrance the remainder of the properties within the building appear to be occupied as flats with shared common close access. The accommodation comprises, entrance hall, one bedroom, living room, kitchen and bathroom.

The Hearing

8. Following the inspection, the Tribunal held a hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The Tenant did not attend. Neither the Landlord or the Third Party Applicant was in attendance or represented. The Tribunal proceeded in their absence.

The Evidence

9. The evidence before the Tribunal consisted of:
 - 9.1 the application form completed by the Third Party Applicant;
 - 9.2 Land Register report relating to the House;
 - 9.3 tenancy agreement between the Landlord and the Tenant dated 9 September 2018;
 - 9.4 letters from the Third Party Applicant to the Landlord notifying her of the issues complained about in the application dated 5 July and 14 October 2019;
 - 9.5 Closing Order dated 11 September 2019;
 - 9.6 Copy Gas Safety Certificate dated 12 February 2020 and copy Electrical Installation Condition Report dated 11 February 2020; and
 - 9.7 the Tribunal's inspection of the House.

Summary of the Issues

10. The issue to be determined was whether the House meets the repairing standard as set out in Section 13 of the Act and whether the Landlord had complied with the duty imposed on them by Section 14(1)(b).

Findings of Fact

11. The Tribunal made the following findings in fact:
 - 11.1 The Tenant of the House is Mrs Cristina Fechete in terms of a tenancy agreement between the Tenant and the Landlord dated 9 September 2018.

- 11.2 The owner of the house is Manjit Kaur. She is the landlord of the house in terms of the tenancy agreement between the parties.
- 11.3 The tenancy between the parties was continuing as at the date of the hearing in relation to the Third Party Applicant's application.
- 11.4 In terms of letters dated 5 July and 14 October 2019 the Third Party Applicant intimated to the Landlord that work required to be carried out to the House for the purposes of ensuring that the Landlord complied with the duties imposed by section 14 (1) (b) of the Act.
- 11.5 There was a CO monitor fitted to the ceiling in the kitchen.
- 11.6 There were hardwired interlinked smoke detectors fitted in the kitchen, living room and hallway.
- 11.7 There was a hole in the outer panel of the double glazed unit of the kitchen window. The outer panel was loose.
- 11.8 There was no shower curtain or screen fitted in the bathroom.
- 11.9 An EICR and Gas Safe certificate has been supplied by email from the landlord. However, the Gas Safe certificate was not fully legible.

Reasons for the Decision

- 12. The Tribunal in its inspection carefully checked the items which were the subject of the application. Inside the House the Tribunal observed the following:
 - 12.1 There were hardwired interlinked smoke detectors fitted in the kitchen, living room and hallway.
 - 12.2 There was a CO monitor fitted to the ceiling in the kitchen.
 - 12.3 There was a hole in the outer panel of the double glazed unit of the kitchen window. The outer panel was loose.
 - 12.4 There was no shower curtain or screen fitted in the bathroom.

The Tribunal also made the following additional observations :

The tiles above the bath had either fallen off or been removed. The boiler pressure appeared to be high and the boiler made a constant "knocking "noise. There were gaps in the masonry below the sink in the kitchen which had been plugged with paper. The Tribunal were of the view that the House failed to meet the repairing standard in light of these additional observations. As these matters had not been included in the application the Tribunal was unable to make a repairing standard enforcement in order in respect of these matters.

Decision

13. Following its inspection and the hearing, the Tribunal determined that:

- The House is not 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 not in a reasonable state of repair and in proper working order
- Fixtures, fittings and appliances provided by the Landlord under the tenancy are in not a reasonable state of repair and in proper working order

Summary of Decision

14. The Tribunal determines that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act, and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that the House is not wind and watertight and in all other respects reasonably fit for human habitation and fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order.
15. The Tribunal therefore makes a repairing standard enforcement order as required by Section 24(2) of the Act.

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. 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.

In witness whereof these presents type written on this and the four preceding pages are executed by Joan Devine, Solicitor, Cornerstone, 107 West Regent Street, Glasgow G2 2BA, Legal Member of the Tribunal at Glasgow on 18 February 2020 before Laura Smith, Cornerstone, 107 West Regent Street, Glasgow G2 2BA

Joan Devine

Laura Smith

Joan Devine, Legal Member

Witness

Glasgow 18 February 2020
This is the Schedule of
Photographs referred to in
the foregoing decision.



Housing and Property Chamber
First-tier Tribunal for Scotland

DM
Deine
Legal Member

Flat 3/3 Cathcart Rd Glasgow G42 8SG

Inspection and Hearing 14 February 2020

Appendix - photos

Photo sheet 1: Fire and CO alarms



Heat alarm and CO monitor in
kitchen



Smoke alarm in hall



Smoke alarm in sitting room

Photo sheet 2: boiler



Boiler



Exposed pipework



Pressure meter

Photo sheet 3: broken kitchen window

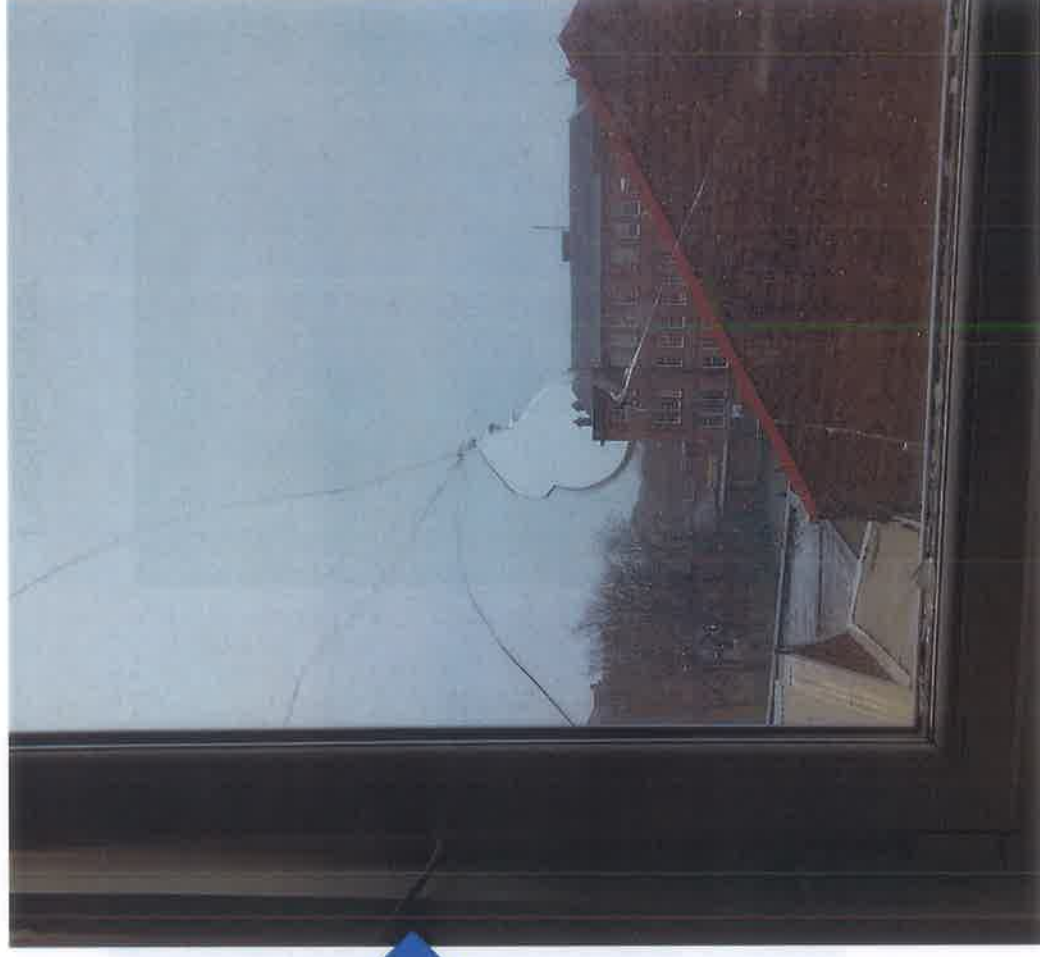


Photo sheet 3: bathroom –
no shower curtain, tiled wall in disrepair



Photo sheet 4: kitchen cupboard

