

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**STATEMENT OF DECISION:** in terms of Section 24 (1) of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22 of the Act

**Chamber Ref:** FTS/HPC/RP/23/1893

**Re:** Property at 0/2, 12, Cresswell Street, Glasgow G12 8BY being the subjects more particularly described as the righthand or eastmost flat on the ground floor of the tenement known as 12 Cresswell Street, Glasgow in Disposition in favour of Mary Russell and others recorded in the Division of the General Register of Sasines (Glasgow) on 27 October 1904 (“the Property”)

**The Parties:**

**Mr. Alexandra Sidorova and Mr. Sean Arnold both residing at the Property (“the Tenants”)**

**And**

**Lanero Property Co. Ltd care of Clyde Property Ltd, 8 Busby Road, Clarkston, Glasgow G76 7XL (“the Landlord”) per their agents, Clyde Property Ltd (“the Landlord’s Agents”) and represented by Mitchells Robertson, George House, 36 North Hanover Street, Glasgow , G1 2AD (“ the Landlord’s Solicitors”)**

**Tribunal Members:**

K      Moore (Chairperson) and A      Taylor (Ordinary and Surveyor Member)

### **Decision of the Tribunal**

The Tribunal determined that the Landlord has failed to comply with the duty imposed on them by Section 14(1) (b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1) (a) and 13(1) (h) of the Act.

### **Background**

1. By application received between 9 June 2023 and 25 July 2023 (“the Application”), the first-named Tenant of the Property applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on them by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Sections

13(1)(a) and 13(1) (h) of the Act. The Application comprised a copy of the tenancy agreement between the Tenants and the Landlord, copy correspondence between the Tenants and the Landlord's Agents regarding repairs to the Property. The Application noted that the windows are in a state of disrepair and that there is a lack of ventilation in the bathroom.

2. The Application was referred to the Tribunal. An Inspection of the Property and a Hearing were fixed for 19 October 2023 and intimated to the Parties.
3. Prior to the Inspection and Hearing, the Landlord's Solicitors lodged written submissions rejecting the claim made in the Application and explaining remedial actions taken by the Landlord.

### **Inspection and Hearing**

4. The Inspection of the matters complained of in the Application took place at the Property on 19 October 2023 at 10.00 am. The Tenants were both present. The Landlord was not present or represented. A Schedule of Photographs taken at the Inspection was prepared and is annexed hereto.
5. The Hearing took place on 19 October 2023 at 11.45 am at Glasgow Tribunal Centre. The Tenants were not present and were not represented. The Landlord was not present and was represented by Mr. A. Casady of the Landlord's Solicitors.
6. The Tribunal discussed the Inspection with Mr. Casady and reported to him that from the Inspection it was noted that the windows throughout the Property required attention and that the kitchen and bathroom windows, in particular, had been nailed shut. The Tribunal advised that there was no extractor fan in the bathroom and as the window cannot be opened, the room cannot be ventilated properly.
7. Mr. Casady explained that the Landlord accepted the issue with the windows had instructed a window refurbishment company to attend to this. He advised the Tribunal that the Property is listed and so specialist work is required and that, although there are backlogs with contractors, the work has been instructed and should be carried out shortly. Mr. Casady stressed the Landlord's commitment to have the work done.

### **Summary of the Issues**

7. The issues to be determined by the Tribunal are whether or not the Property meets the Repairing Standard in respect of Sections 13(1) (a) and 13(1)(h) of the Act at the date of the Inspection and Hearing.

### **Findings of Fact**

8. From the Inspection, the Tribunal found the following in respect of matters specifically complained of in the Application:

- i) The windows throughout the Property are in a poor state of repair and cannot be operated properly;
  - ii) The windows in the bathroom and kitchen are nailed shut and cannot be opened;
  - iii) There is no extractor fan in the bathroom and it cannot be ventilated;
  - iv) There is mould and dampness in the kitchen and the bathroom walls and
  - v) There is mould on the bathroom window frame and the window blinds.
9. At the Inspection, the Tribunal noted that the provision for fire detection may not be in accordance with current standards. The Landlord's attention is drawn to paragraph 15 below.

**Decision of the Tribunal and reasons for the decision.**

10. The Tribunal's decision is based on the Application with supporting documents, the Landlord's written representations, the Inspection, and the Hearing.
11. In respect of the complaint in terms of Section 13 (1) (a) of the Act that the Landlord has failed to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation, the Tribunal found that the poor condition of the windows and the lack of ventilation in the bathroom are such that at the date of the Inspection and Hearing the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
12. In respect of the complaint in terms of Section 13 (1) (h) of the Act that the Landlord has failed to ensure that the Property meets the Tolerable Standard, as the Tribunal has found that the windows are in poor condition and that there is mould and dampness in the Property, the Tribunal found that the Property does not meet the Tolerable Standard and so the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
13. The decision is unanimous.

**Repairing Standard Enforcement Order (RSEO)**

14. Having determined that the Landlords have failed to comply with the duty imposed by section 14(1)(b), the Tribunal proceeded to make an RSEO as required by Section 24 (1) of the Act.

**Note to Landlord**

15. The Landlord's attention is drawn to the Tribunal's comments in respect of the provision for fire detection. It is recommended that landlord should provide and install smoke detection and alarm equipment in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 and the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Order 2019.

### **Appeal**

16. 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.

Signed

K      Moore, Chairperson

24 October 2023