

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/RT/23/2255

Re: Property at 11 Oxfangs House, Edinburgh, EH13 9HE (“the Property”)

Title Number: MID99515

The Parties:

The City of Edinburgh Council, Housing and Regulatory Services, G1 Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG (“The applicant”)

Mr Mohammed Abrar, residing at 143 Glasgow Road, East Kilbride, South Lanarkshire G74 4QA (“the Landlord”)

Interested Party:

Jessica Brandon and Jamie Hicks residing together at 11 Oxfangs House, Edinburgh, EH13 9HE (“the Tenant”)

Tribunal Members:

Paul Doyle (Legal Member)

Greig Adams (Surveyor Member)

Unanimous Decision of the Tribunal

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’) finds that the landlord has failed to comply with the Repairing Standard Order made on 12 October 2023 and declines to certify that the work required by the Repairing Standard Enforcement Order relative to the Property made on 12 October 2023 has been completed. Accordingly, the said Repairing Standard Enforcement Order remains in place.

Background

(1) On 12 October 2023 the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) issued a decision requiring the Landlord to comply with the repairing standard enforcement order (“RSEO”) made by the tribunal on 12 October 2023. The tribunal tried to reinspect the property on 15 January 2024.

(2) The Repairing Standard Enforcement Order (“RSEO”) required the Landlord to

(a) Instruct a suitably qualified Gas Safe registered engineer to inspect and carry out all works necessary to leave the gas central heating system and boiler in good working order. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with an up-to-date and satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.

(b) Ensure that interlinked smoke and heat detectors, and carbon monoxide detectors are installed within the property, ensuring that they are fully functional and located and powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.

(c) Repair or replace door stop, door handle & latch and multipoint locking mechanism on the front door to the property

(d) To obtain either (i) a Building Warrant/and or Completion Certificate issued by the local authority, or (ii) obtain a report from the local authority’s Property Inspection service, or (iii) obtain a Certificate of Completion for the en-suite shower room/wc. If the local authority refuse to (iv) grant Building Warrant and/or Completion Certificate, or (v) detail remedial works required within the Property Inspection service report or (vi) refuse to grant a Certificate of Completion, either a) remove the ensuite shower/wc and reinstate the pre-existing storage space or b) carry out all works recommended by the local authority advised in obtaining items (i)-(iii) and also progress all works to comply with the Building (Scotland) Regulations 2004.

All within 28 days.

Re-inspection

(3) On 15 January 2024 tribunal members reinspected the property. During the inspection, the surveyor member took photographs, which form part of the reinspection report attached to this decision.

(4) On entering the property, tribunal members could see that smoke and heat detectors have been fitted in the central hallway, the kitchen, and the livingroom, all on the lower floor of the property, and in the landing on the upper

floor of the property. Tribunal members tested the smoke and heat alarms and found that they are interlinked.

(5) Tribunal members could not find a carbon monoxide alarm within the property.

(6) Tribunal members could see that the en-suite shower room has been removed, and is now used as storage space. The plumbing is still visible and the soil pipe has not been properly capped. The work is incomplete. The soil pipe still needs to be properly capped.

(7) It was obvious to tribunal members that no repairs have been carried out to the central heating boiler, and no repairs have been carried out to the door stop, door handle & latch and multipoint locking mechanism on the front door to the property

(8) The landlord produces a letter dated 02 December 2023 from Edinburgh Gas and Electrical Services Ltd which declares that the central heating boiler cannot be repaired. It therefore needs to be replaced. In an email dated 10 January 2024 the landlord concedes that the work required by (a) & (c) of the RSEO have not been completed. He blames the tenants and says the tenants have been rude and obstructive and his tradesmen have been denied access to the property.

(9) A hearing took place at George House, George Street, Edinburgh at 11.45am on 15 January 2024. The tenants attended. Ms R Laidlaw represented the Applicant. The landlord was neither present nor represented.

(10) The tenants told the tribunal that they have not denied access to either the landlord or his tradesmen. They said that the landlord gives less than 12 hours notice before coming to the property to try to carry out repairs himself, and that the landlords heating engineer refused to carry out works because the tenants wanted to take a picture of his identity documents. The tenants say they have called the police because the landlord threatens them when he visits the property. The tenants complained that the landlord tries to carry out repairs himself using cheap material and unorthodox methods.

(11) It was obvious from tribunal members observations at the inspection that less than half of the work required by the RSEO has been carried out.

(12) The landlord must complete the following works before a certificate of completion can be issued

(a) Instruct a suitably qualified Gas Safe registered engineer to inspect and carry out all works necessary to leave the gas central heating system and boiler in good working order. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with an up-to-date and satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.

(b) Ensure that carbon monoxide detectors are installed within the property, ensuring that they are fully functional and located and powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.

(c) Repair or replace door stop, door handle & latch and multipoint locking mechanism on the front door to the property

(d) complete removal of the the ensuite shower/wc and reinstate the pre-existing storage space by capping the soil pipe properly.

(13) It is in the tenants' interest to allow the landlord and his tradesmen access to carry out the outstanding repairs. It is not necessary to photograph either the tradesmen or their identity documents.

(14) It is in the Landlord's interest to instruct tradesmen to carry out the repairs (without delay) rather than try to carry out the repairs himself.

DECISION

(15) The only conclusion that the Tribunal can come to is the works required by the RSEO have not been completed. The tribunal therefore refuse to issue a certificate of completion of works in terms of s. 60 of the Housing (Scotland) Act 2006 because the landlord has failed to comply with the RSEO made on 12 October 2023.

Right of 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.

(17) 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 **P Doyle**
Legal Member

9 February 2024

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Re-Inspection Report

Chamber Ref: FTS/HPC/RT/23/2255



**Property: 11 Oxgangs House, Oxgangs Grove, Edinburgh EH13 9HE
("The Property")**

Title No: MID99515

THE PARTIES:

The City of Edinburgh Council, Housing and Regulatory Services, G1 Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG ("The applicant")

Mr Mohammed Abrar, residing at 143 Glasgow Road, East Kilbride, South Lanarkshire G74 4QA ("the Landlord")

Interested Party:

Jessica Brandon and Jamie Hicks residing together at 11 Oxgangs House, Edinburgh, EH13 9HE ("the Tenant")

THE TRIBUNAL:

Tribunal members: Paul Doyle (Legal Member/Chair) and Greig Adams (Ordinary/surveyor Member)

Background:

On 12 October 2023, the First-tier Tribunal for Scotland Housing and Property Chamber) issued a Repairing Standard Enforcement Order (“the Order”) in respect of the Property. The Order required the Landlord to:-

- (a) Instruct a suitably qualified Gas Safe registered engineer to inspect and carry out all works necessary to leave the gas central heating system and boiler in good working order. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with an up-to-date and satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.
- (b) Ensure that interlinked smoke and heat detectors, and carbon monoxide detectors are installed within the property, ensuring that they are fully functional and located and powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.
- (c) Repair or replace door stop, door handle & latch and multipoint locking mechanism on the front door to the property
- (d) To obtain either (i) a Building Warrant/and or Completion Certificate issued by the local authority, or (ii) obtain a report from the local authority’s Property Inspection service, or (iii) obtain a Certificate of Completion for the en-suite shower room/wc. If the local authority refuse to (iv) grant Building Warrant and/or Completion Certificate, or (v) detail remedial works required within the Property Inspection service report or (vi) refuse to grant a Certificate of Completion, either a) remove the ensuite shower/wc and reinstate the preexisting storage space or b) carry out all works recommended by the local authority advised in obtaining items (i)-(iii) and also progress all works to comply with the Building (Scotland) Regulations 2004.

Works were required to be completed within 28 days from service.

Access:

The re-inspection was undertaken on 15 January 2024 by the Tribunal Members. The inspection extended to an inspection of the outstanding items detailed within the RSEO.

Purpose of Re-inspection:

The purpose of the re-inspection was to investigate whether the outstanding work required under the Repairing Standard Enforcement Order has been completed.

Re-inspection Findings:

Our re-inspection found:

- a) A satisfactory Gas Safety Record from a suitably qualified Gas Safe registered heating engineer had not been presented to the Tribunal whilst the gas central heating system was not operational and not in a good working order.
- b) Interlinked smoke and heat detectors were present within the Property which were deemed satisfactory. However, a Carbon Monoxide detector was not evidenced.
- c) The repair works to the front door remained outstanding.

- d) The sanitaryware to the en-suite had been removed. Copper pipework tails were capped above floor level whilst the soil pipe positioned below the vinyl floor has been provided with a build-up of silicon sealant with no proprietary capping provided.

Greig Adams BSc (Hons) FRICS C. Build E FCABE LETAPAEWE
Surveyor Member

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

Appendix A – Photographic Record



1 Gas fired boiler not operational.



2 Gas fired boiler not operational.



3 Satisfactory smoke detection.



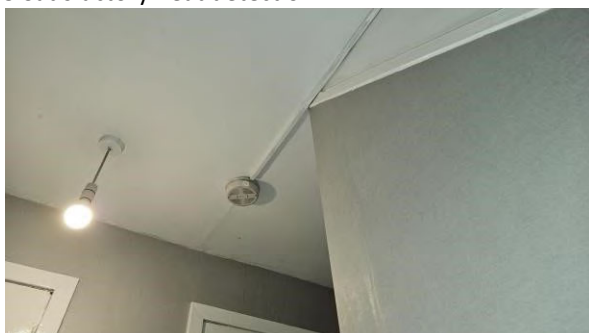
4 Satisfactory smoke detection.



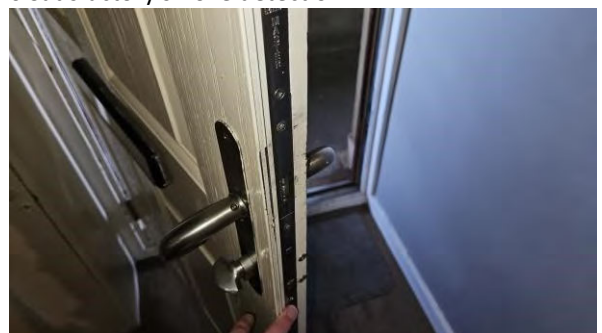
5 Satisfactory heat detection.



6 Satisfactory smoke detection.



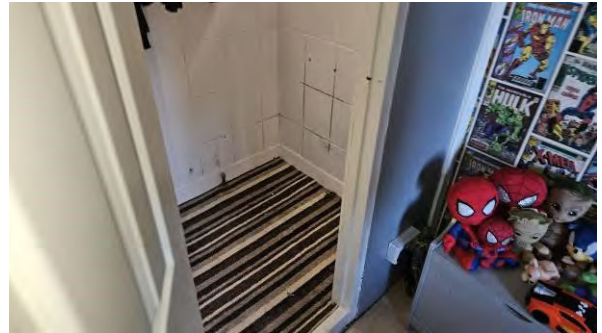
7 Satisfactory smoke detection.



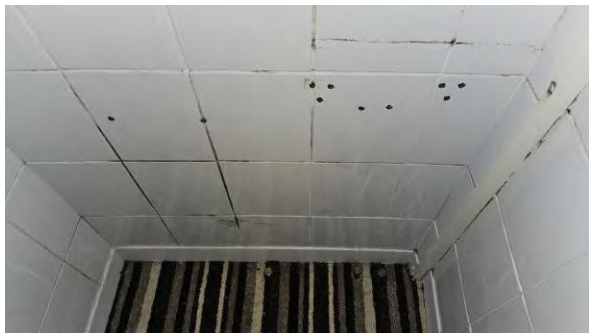
8 Front door defective locking mechanism.



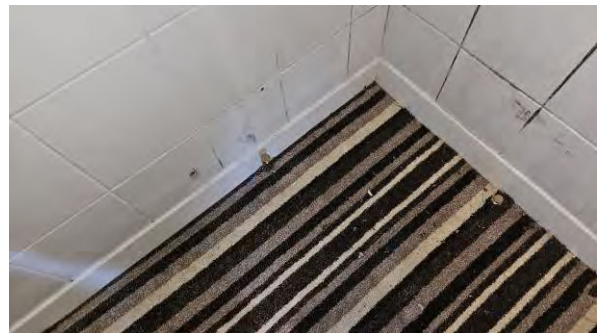
9 Front door – defective door stop.



10 Former En-Suite Bathroom.



11 Sanitaryware removed.



12 Pipework tails above floor level.



13 Poor silicon sealant capping to soil pipe.



14 Minor adjacent above Kitchen door at cable penetration from smoke/heat detector cabling.



15 Minor damage at circulation corridor adjacent to cabling penetration.