

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/23/3060

Property at 305 Amulree Street, Glasgow G327SJ ("the Property"), being the subjects
registered in the Land Register of Scotland under Title Number GLA75863.

The Parties: -

Miss Nicola Grimes, residing at 305 Amulree Street, Glasgow G327SJ ("The Tenant"),

And

Mr Georgina Brown residing at 2 Duncryne Gardens, Glasgow G320SA ("The Landlord")

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 Landlord has 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. A Cowan, Legal Member, and
Ms. C Scott, Ordinary Member (Surveyor)

Background

1. By application received by the Tribunal on 5th September 2023 (hereinafter referred to as "the Application") the Tenant applied to the Tribunal for determination as to whether the Landlord 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 Landlord had failed to comply with the duty to ensure the House meets the Repairing Standard and, in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

13(1) a. The house is wind and watertight and in all other respects reasonably fit for human habitation.

13(1) b. The structure and exterior of the house (including drains gutters and external pipes) are in a reasonable state of repair and in proper working order.

13(1) c. The installations in the house for the supply of water, gas and electricity and sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.

13(1) d. Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

13(1) h. The house does not meet the tolerable standard.

3. The Tenant has provided within the Application details as to why she considers that the Landlord has failed to meet the Repairing Standard. By letter, emailed to the Landlord on 6th November 2023, the Tenant had intimated to the Landlord a list of defects which the Tenant considered the Landlord required to repair in order to bring the Property up to the Repairing Standard.
4. A summary of the issues which were intimated to the Landlords, and which were referred to in the Application are:-
 - a. The house is not wind and watertight due to the existence of dampness and mould in the two bedrooms of the Property.
 - b. A soil downpipe at the rear of the Property is leaking and is not in a reasonable state of repair.

- c. The boiler within the Property (being an installation in the Property for the supply of space heating and heating water) switches off intermittently and is not in a reasonable state of repair and in proper working order
 - d. The back door of the Property is not windtight and allows significant draughts into the Property.
5. After various requests were made by the Tribunal to the Tenant for further information, the Application was accepted by the Chamber President on 12th October 2023 and was referred for this Tribunal's consideration.
6. The Tenant and the Landlord were advised that the Tribunal would inspect the property on 1st March 2024 10am. Parties were advised that a hearing would then be held at 11:45am on the same date at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT.

Property Inspection

7. The Tribunal inspected the property on 1st March 2024. Both the Tenant and the Landlord were present at the time of 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

8. A hearing in relation to the Application was held on 1st March 2024 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT.

Both the Tenant and the Landlord attended the hearing and gave evidence to the Tribunal. The Landlord was accompanied at the hearing by her daughter Ms. Fiona Brown.

9. At the start of the hearing the Tribunal outlined their observations from their inspection of the property. These observations are as noted on the schedule to this decision.
10. The Tribunal heard evidence from the parties in relation to each of the complaints raised by the Tenant in the Application.

11. From the evidence of the parties the Tribunal noted that there is currently no written tenancy agreement between the parties. It was accepted by both parties that the Tenant had commenced a tenancy commenced of the Property in October 2015. The Landlord confirmed that she understood that the Property required to meet the Repairing Standard throughout the term of the tenancy between the parties. The Tenant informed the Tribunal that she planned to vacate the Property on 26th April 2024.

Complaint regarding water ingress and dampness in the bedrooms of the Property.

12. In relation to the Tenant's complaint that there is dampness in both bedrooms of the Property, the Tribunal outlined their own observations from their inspection of the Property. Using a dampmeter, the Tribunal had noted high readings of dampness on the lower section of the internal walls in each bedroom. From an external inspection of the Property the Tribunal had further observed evidence of damage to brick work on the lower section of those same external walls. There is evidence of patch repair to the brickwork pointing.
13. The Tenant confirmed, in the Application, that she has made repeated requests to the Landlord to rectify water ingress and dampness in the bedrooms of the Property. It is the Tenant's position that, despite the Landlord being made aware of the dampness within the bedrooms of the Property, the Landlord has failed to meet their obligations in terms of section 14 of the Act to ensure that the Property meets the Repairing Standard or to address the issues within a reasonable period.
14. At the hearing the Landlord accepted that the bedrooms were affected by dampness. She explained that she had engaged with the Factors of the Property. Some work had been instructed by the Factors to rectify the issue of dampness, but the Landlord accepted that the issue persisted. The Landlord understood that the factors were going to attend at the property again on 8th March 204 with a view to determining the nature and extent of the dampness issues, together with determining what works were required to rectify the issue.

Complaint regarding the soil downpipe at the rear of the Property.

15. At the inspection of the Property the Tribunal noted that the the soil downpipe at the rear of the Property was rusted and there was evidence that it was leaking. The Tenant confirmed in her evidence to the Tribunal that the pipe leaked foul water onto the side of the Property.
16. At the hearing, the Landlord accepted that the downpipe was not in a reasonable state of repair. She had not contacted the proprietor of the upper floor flat to discuss possible repairs. She intended to raise the matter with the Factor for the Property.

Complaint regarding the boiler at the Property.

17. The Tenant confirmed in the Application that she has made repeated requests to the Landlord to rectify issues with the boiler at the Property. She explained in her evidence to the Tribunal that the boiler pressure drops and intermittently cuts off, leaving her with no hot water or heating.
18. The Landlord explained that she had had understood certain works had been carried out to the boiler to repair and service the boiler, but she did not have any evidence of any recent service of the boiler. She indicated that she had a gas safety certificate for the Property, but she had not submitted such a certificate to the Tribunal.

Complaint regarding the back door at the Property.

19. The Tenant had complained in her application that the back door of the Property required to be replaced with a draught proof door.
20. The Tribunal had noted at their inspection of the Property that there were no significant draughts around the back door. There was no evidence that it did not meet the Repairing Standard.
21. The Tribunal's observations were accepted by the Tenant in relation to this part of her complaint.

Findings in Fact

22. 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 in respect of the Property at 305 Amulree Street, Glasgow G327SJ.
- b) The Tenant occupied the Property from October 2015.
- c) The Tenancy has not, as at the date hereof, been terminated.
- d) There are significant and high levels of dampness in the bedrooms of the Property, together with evidence of mould and damp staining. The Property is not wind and watertight and in all other respects reasonably fit for human habitation for this reason.
- e) The downpipe at the rear of the Property is not in a reasonable state of repair or in proper working order. The structure and exterior of the house (including drains gutters and external pipes) are not in a reasonable state of repair and in proper working order for this reason.
- f) The boiler in the bathroom of the Property is not in proper working order. The installations in the Property for the supply of space heating and heating water are not in a reasonable state of repair or working order for this reason.
- g) The back door of the Property is in a reasonable state of repair and in proper working order.
- h) The Property does not currently meet the Repairing Standard and in particular the Landlord has failed to comply with subsections (a), (b), and (c) 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 is not substantially free from rising or penetrating damp.

Reasons for Decision

23. The Tribunal considered the parties to be entirely credible in their evidence. Their statements regarding the condition of the property were in accordance with the Tribunal's own observations from their inspection of the Property.

24. 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

25. The Tribunal accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
26. 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. Instruct a suitably qualified specialist to
 - i. prepare a report on the dampness which affects the bedrooms in the Property and which details the cause and full extent of that dampness and
 - ii. prepare a proposed specification of works outlining any necessary works required to ensure that the Property is wind and watertight, and that the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair.
 - b. Submit the report and specification required at Paragraph 26a to the Tribunal for further consideration and, thereafter, carry out all works which are then further determined by the Tribunal as are necessary to ensure that the property meets the Repairing Standard.
 - c. Repair the downpipe at the rear of the Property so that is in a reasonable state of repair and in proper working order.
 - d. Instruct a suitably qualified "gas safe" engineer to Service and repair the boiler/central heating system, so that it is in a reasonable state of repair and in proper working order.
27. The Tribunal order that the works specified in the RSEO must be carried out and completed by 10th May 2024.

28. The decision of the Tribunal is unanimous.

Right of Appeal

29. 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

Date 1st March 2024

Housing and Property Chamber First-tier Tribunal for Scotland



Inspection and photograph Schedule - Appendix 1



Property: 305 Amulree Street, Glasgow, G32 7SJ

Reference number: FTS/HPC/RP/23/3060

Tribunal Members: Debbie Scott (Ordinary Member), Andrew Cowan (Legal Member)

Tenants: Miss Nicola Grimes, residing at 305 Amulree Street, Glasgow, G32 7SJ

Landlord: Mrs Georgina Brown, c/o The Gables, 8 Baillieston Road, Glasgow, G32 0QQ. Landlords represented by: Miss Fiona Brown, c/o The Gables, 8 Baillieston Road, G32 0QQ.

Date of Inspection: 1st March 2024

Description: Ground floor flat within a four in a block, cottage style property.

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 Tribunal Members attended the property on 1st March 2024

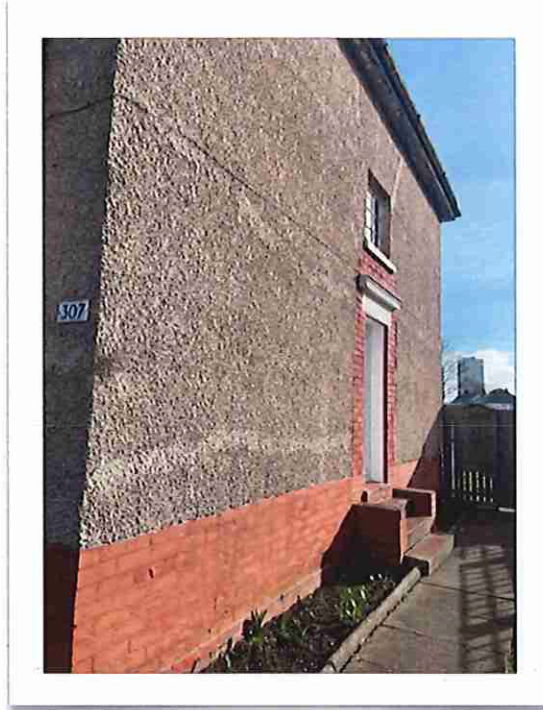
Appendix 1

Schedule of Photographs taken during the inspection specifically relating to items raised in the application.

Photo 1: Front Elevation of Ground floor flat



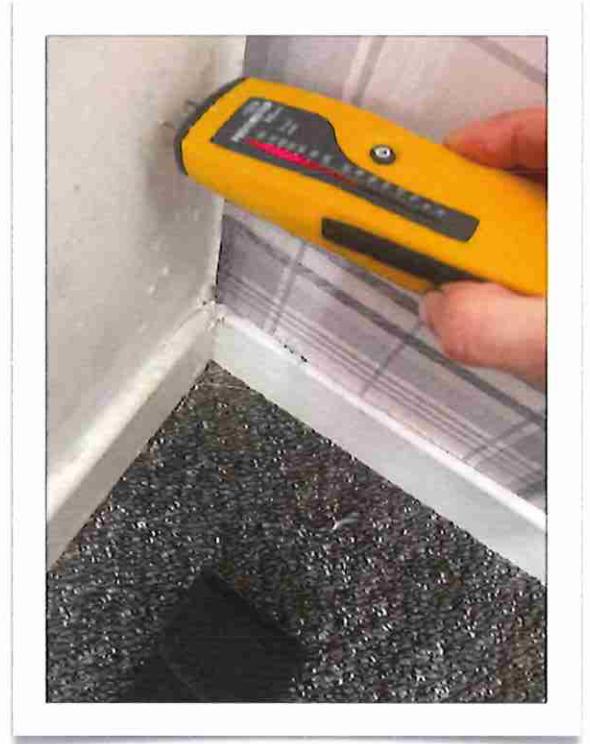
Gable Elevation



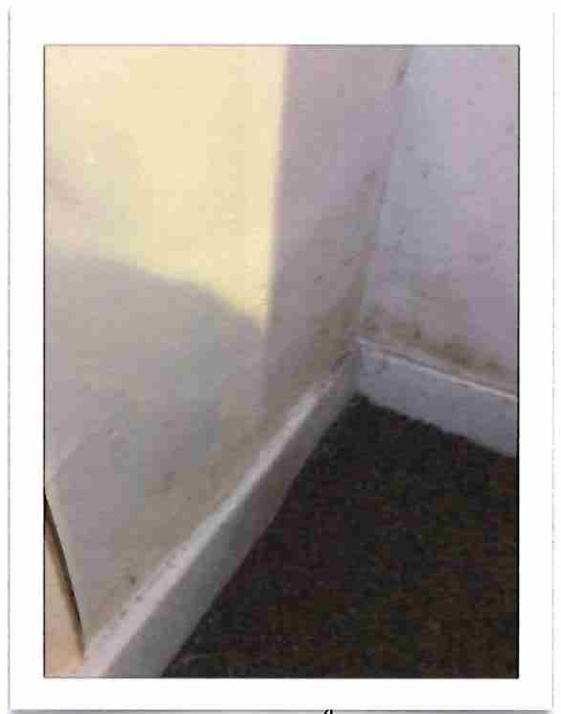
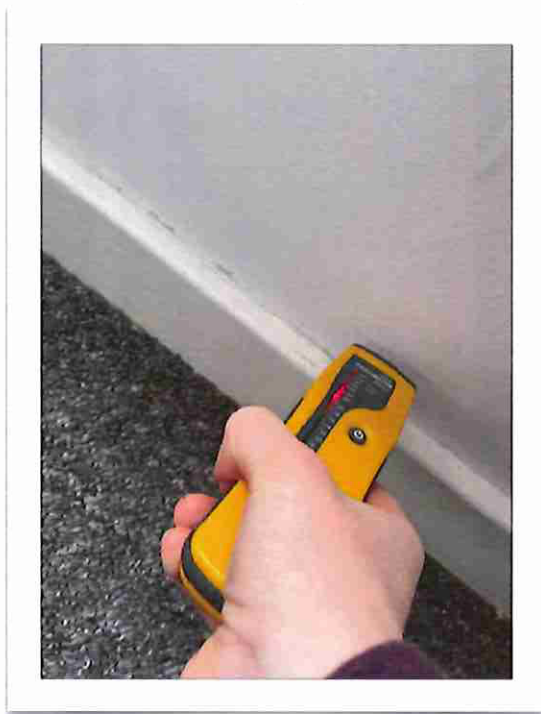
Brick work at low level rear of the property



Bedroom (first) - Damp staining and high damp meter readings



Second Bedroom - High Damp meter readings and staining on walls

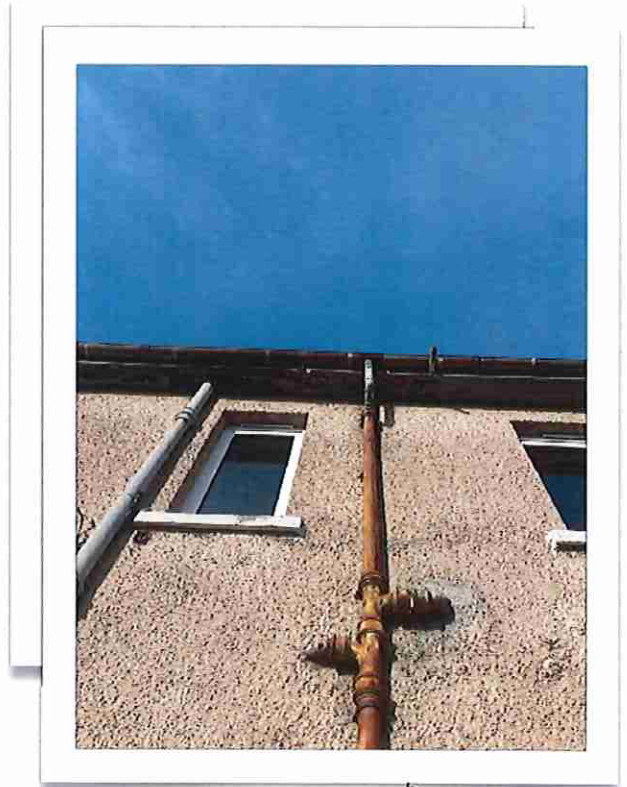
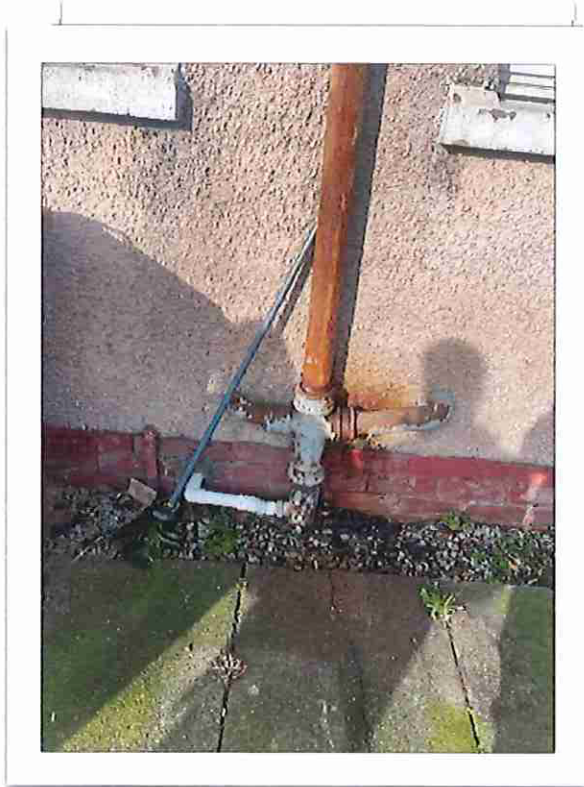


Central Heating Boiler - Located within Cupboard in Kitchen



Rear Door - insulation

Drains, gutters and external pipes: visibly leaking and corroded.



Signed
Debbie Scott
Ordinary Member
1st March 2024