

# 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)**

**Chamber Ref: FTS/HPC/RT/24/0177**

**Title No: DMB13712**

**112G Beechwood Drive, Bonhill G83 9LY ("The Property")**

**The Parties:-**

**West Dunbartonshire Council, Environmental Health, Council Offices,  
16 Church Street, Dumbarton G82 1QQ ("the Third Party Applicant")**

**Mr Danut Colceriu, 112G Beechwood Drive, Bonhill G83 9LY ("the  
Tenant")**

**Mr David Aitken, 19B Conic Way, Drymen G63 0DT ("the Landlord")**

**Tribunal Members: Richard Mill (Legal Member) and Andrew McFarlane  
(Surveyor Member)**

### **Decision**

The property does not meet the repairing standard. The landlord has not complied with the duty imposed by section 14(1) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary.

### **Background**

1. The third party applicant applied to the tribunal for a determination of whether the landlord has failed to comply with the duties imposed by section 14(1) of the Act in respect of the property.
2. In the written application the third party applicant complains that the landlord has failed to comply with their duty to ensure that the property meets the repairing standard according to section 13(1)(a), (c) and (f), which set out the following obligations:-

- the house is 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 or heating water 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 fire.
3. Notices of referral were issued to parties on 14 March 2024.
  4. On 18 March 2024 the tribunal issued a Direction in the following terms which required the landlord to produce:-
    1. A current satisfactory Electrical Installation Condition Report (EICR) from a SELECT, NICEIC or NAPIT accredited electrician in respect of the property, containing no Category C1 or C2 items of disrepair.
    2. Evidence of the provision for smoke and heat detection in accordance with existing Scottish Government statutory guidelines.

The said documentation required to be lodged with the Chamber no later than **12 noon on Friday 12 April 2024**. The landlord failed to comply with this Direction.

### **Inspection**

5. The tribunal inspected the property on 30 April 2024 at 10.00am. The tenant permitted entry to the tribunal. The landlord was invited but did not attend. The third party applicant was also invited and advised in advance that no representative would attend.

### **Hearing**

6. Following the inspection of the property, the tribunal convened a hearing at 11.45am at Glasgow Tribunal Centre. There were no participants. All parties had been invited.

### **Summary of Issues**

7. The issues to be determined by the tribunal are whether or not the property meets the repairing standard to the extent put at issue within the application, as at the date of the hearing.
8. The application raised the following concerns:-

- A section of the ceiling in the hallway was exposed due to water ingress from the roof.
- No smoke/heat alarms installed.
- Older style electrical consumer unit and no Electrical Installation Condition Report (EICR).

### **Findings in Fact**

9. The tribunal makes the following findings in fact (as at 30 April 2024):-
  - a. The title to the subjects known as 112G Beechwood Drive, Bonhill G83 9LY is held by the landlord in the Land Register for Dumbarton under Title DMB13712.
  - b. The property which is the subject of this application is situated on the first (upper) floor of a modern two floor brick built block of eight similar properties.
  - c. The property is bedsit accommodation comprised of a small hallway upon entry which leads to a living room/bedroom/kitchen with a shower room off this.
  - d. The ceiling in the small hallway is mostly missing as a direct consequence of persistent water ingress from the common roof of the block. The area is damp and wet. Electrical wires are exposed. There is evidence of an active and ongoing leak.
  - e. There is no heat alarm in the kitchen area of the property. There are two smoke detectors which the tenant has arranged to be fitted, one in the hallway and one in the living area, but these are not interlinked.
  - f. The electrical consumer unit is of an old style and plastic.
  - g. The landlord has failed to evidence the existence of a satisfactory EICR from a suitably qualified electrician containing no category C1 or C2 items of disrepair.
10. Reference is made to the schedule of photographs comprised within the inspection report prepared by the tribunal and attached to this decision.

### **Reasons for Decision**

11. The tribunal determined the application having regard to the bundle of papers which were made available, together with their observations at

the inspection. Reference is made to the tribunal's findings in fact and the corresponding schedule of photographs.

12. The tribunal is only able to consider the complaints which formed part of the intimated application and had an obligation to consider the complaints as at the date of the inspection and hearing on 30 April 2024.
13. The tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material with which to reach a fair determination of the reference.
14. There is no doubt whatsoever that the landlord has failed to ensure that the property meets the repairing standard. The house is evidently not wind and watertight and there remains ongoing active water ingress into the property. The property is not reasonably fit for human habitation.
15. There are serious concerns regarding the electrical installation in the property. The electrical consumer unit is of an old style and is not fireproof. There are exposed electrical cables in the ceiling of the hallway due to water ingress. The tenant previously sought assistance from the fire brigade and obtained a report from Scottish Fire & Rescue which recommended the isolation of the electrical supply. The landlord was asked by the third party applicant, on more than one occasion, to obtain an EICR and failed to do so. The tribunal previously issued a Direction requiring the landlord to produce an EICR and similarly failed to do so.
16. As highlighted by the tribunal's findings, the property does not currently have satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire. Landlords in Scotland require to ensure that such provision is in accordance with published and easily accessible guidance. The landlord has failed to do so.
17. The tribunal determined to make a Repairing Standard Enforcement Order (RSEO). The Tribunal determined that the landlord be provided with a period of 6 weeks to carry out these works which is reasonable given the nature and extent of the works. There will now be serious legal consequences if the landlord fails to comply with the tribunal. The landlord should prioritise as a matter of urgency the instruction of a suitably qualified electrician to review the electrics and to carry out all work required to ensure that an EICR can be produced which contains no C1 or C2 items of disrepair. The landlord should similarly prioritise as a matter of urgency the installation of interlinked smoke and heat detectors in accordance with Scottish Government Guidance.
18. It is noted that the landlord invited the tenant to enter into a "short assured tenancy" in September 2021. Such tenancies have not been available in Scotland since December 2017. The tenancy between the

parties is a private residential tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.

19. The landlord is not a registered landlord. His failure to be a registered landlord constitutes the commission of a criminal offence. Under Section 72 of the 2016 Act, the First-tier Tribunal has a duty to report unregistered landlords and the tribunal will proceed to do so.

### **Decision**

20. The tribunal, having made enquiries for the purposes of determining whether the landlords have complied with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, determined that the landlords have failed to comply with their duty imposed by Section 14(1)(b) of the Act in respect that the property does meet the repairing standard.

### **Right of Appeal**

21. 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.
22. 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 preceding pages are executed by Richard George Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the tribunal at Edinburgh on 2 May 2024 before this witness:-

R Mill

Legal Member

C McNaught

Witness

Name

Address



Property Address

112G Beechwood Drive  
Bonhill  
Dunbartonshire  
G83 9LY

Case Reference

FTS HPC RT 24 0177

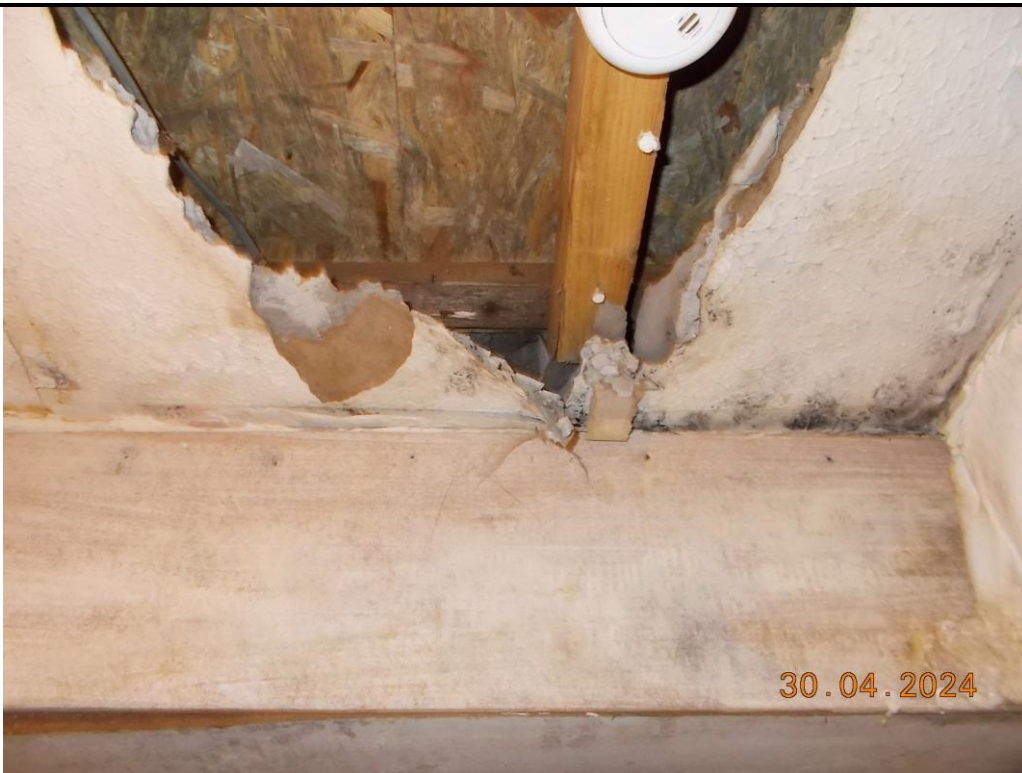


Schedule of Photographs taken during the  
inspection by tribunal members on 30 April  
2024





1. Ceiling to entrance vestibule



2. Ceiling to entrance vestibule



3. Smoke Alarm in Entrance Vestibule



4. Smoke Alarm in Bed sitting Room





5. Electrical switchgear

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