

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 24 (1) of the Housing (Scotland) Act 2006 (“The Act”)

Chamber Ref: FTS/HPC/RP/24/2325

Re: Property at Flat1/2, 7 Elizabeth Street, Glasgow, G51 1SR (“the Property”) being the subjects registered in the Land Register of Scotland under Title Number GLA48458

Parties

Mr Bobby Sutherland residing at Flat1/2, 7 Elizabeth Street, Glasgow, G51 1SR, (“the Tenant”)

Mr Shandeep Singh Kambo residing at 3, Ballochmyle Place, Glasgow G53 7GQ (“the Landlord”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Ms Carol Jones (Ordinary Member)

Decision

[1] 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 Landlord had 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”).

Background

[2] By Application dated 21 May 2024, The Applicant seeks a determination that the Landlord has failed to comply with his duty under Section 14 (1)(b) of the Act in that the Property does not meet the Repairing Standard in respect of 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) (h) The house meets the tolerable standard.

[3] The Application narrated the following two principal issues:

- 1. Faulty guttering- reported to environmental health after two years. Leading to significant damp in the kitchen, which has now led to unsafe wall and wooden window frame. Water runs in through ceiling of bathroom during heavy rain.*
- 2. Previous leak from upstairs bathroom with damp and damage to plaster in bedroom, which has been left for over a year after the leak was fixed.*

[4] The Application was submitted with a copy of the tenancy agreement and email correspondence between the Tenant and the Landlord's letting agents, 1st Lets (Glasgow) Ltd referring to a number of repairing issues with the Property over the course of the tenancy. This included complaints of an infestation of mice in the Property.

[5] The Landlord's agent has submitted documentation which takes the position that the matters of concern have been addressed by the Landlord and that the Landlord has been chasing the relevant Property Factor to try and resolve the issues with the gutters.

[6] The application was accepted by the Chamber President and referred to this tribunal for consideration on 28 June 2024.

[7] The Tribunal intimated to all parties that they would inspect the property on Monday 11 November at 10am and a hearing would be held at the Glasgow Tribunal Centre, 20 York Street, Glasgow G2 8JX at 11.30am on the same date.

The Inspection

[8] The Tribunal Members, in the company of the Tenant and Mr Iqbal from 1st Lets (Glasgow) Ltd, who are the Landlord's agents, conducted an inspection of the Property at 10am on 11 November 2024. The property is a large first floor flat in a 3 storey traditional victorian tenement situated in the Ibrox district of Glasgow and located around 2 miles south-west of the city centre. The accommodation comprises a Hall, Living Room, two Double Bedrooms, Dining-Kitchen and Bathroom. It has gas central heating and timber windows. The Tribunal took photographs which are produced in the schedule attached to this decision.

[9] The Tribunal observed that the gutters at the front of the building in which the Property is situated are in poor condition and the front roof tiles are covered with moss. There is extensive water staining to the external stonework on both front and rear elevations. This external staining extends from the rear gutters down between the kitchen and bathroom window openings towards ground level. The Tribunal observed staining on a wall in the bedroom which was said to have arisen following on from a leak in an upstairs property. The Tribunal observed an area in the bathroom near the window and ceiling which was said to continually leak in heavy rain and a section of ceiling and wall in the hall which has been recently decorated by the landlord. The Tribunal observed rodent droppings on the kitchen worktops and a large hole under the sink at the back of the base unit. The Tribunal observed areas said to have been recently re-plastered and redecorated by the Landlord in the kitchen at the rear corner to the right side of the window and wall adjoining the bathroom. Damp meter readings were taken in this area which showed moderate moisture levels in search mode.

[10] The Tenant was invited to direct the Tribunal's attention to any other part of the Property which the Tenant wished the Tribunal to consider and which had formed part of the complaints in the documentation attached to the application. The Tribunal also made its own observations and tested all smoke and heat detectors which were found to be in working order and interlinked. The Tribunal also observed a wall mounted carbon monoxide detector in the kitchen, this did not appear to be in working order and was not positioned in accordance the relevant guidance in that it was not located above all window and door openings. After all parties confirmed that they were content that the Tribunal had been directed to all relevant areas of the Property, the Tribunal concluded the inspection and adjourned the Application to a Hearing which then took place at 11.30am in Glasgow Tribunals Centre.

The Hearing

[11] The Tenant and Mr Iqbal then duly convened at the appointed time for the Hearing. Neither party had any preliminary matters to raise and both were content that the Tribunal get started. The Tribunal heard from the Tenant about the issues raised in the Application. The two matters set out in the Application remained unaddressed in his opinion. He explained that whilst cosmetic works had been carried out by the Respondent around one week ago, the root cause lay unaddressed and he was of the view that the Property still did not meet the Repairing Standard. In relation to the kitchen, he said he noticed damp staining when he first occupied the property in 2020 but it became a more serious issue from January 2023 onwards particularly during and after heavy rain. The tenant described water running along the bathroom ceiling from around the window during heavy rain. He said no works have been carried out to the gutters to stop the water ingress and there had been no rain since the landlord redecorated. The tenant said there had always been a problem with mice, he had tried using poison and traps but the mice came back. He said he sees and hears mice on a

daily basis and he thinks they come in through holes under the sink, the boiler and behind the washing machine.

[12] Mr Iqbal also addressed the Tribunal and set out his own position in respect of matters. He invited the Tribunal to dismiss the Application and to find that there was no breach of the Repairing Standard.

[13] Mr Iqbal accepted that the water leaked through the bathroom wall around the window whenever it rained heavily. The Tribunal considered that this in of itself meant that the Repairing Standard was not complied with. He said the plaster in the kitchen was removed and the area re-plastered and painted. Mr Iqbal claimed that he only became aware of an issue with vermin when it was raised today at the inspection. However, it was clear that there were emails of complaint from the Tenant to Mr Iqbal's office about this issue going back to 2021. These emails had also been circulated to parties in the relevant Tribunal papers when the Application was served. The Tribunal could therefore not accept Mr Iqbal's position as being well founded. Similarly, Mr Iqbal appeared to suggest that if it had been raised, then his office would have arranged for the holes through which the vermin accessed the Property to be closed off. However, the Tenant confirmed this had simply never happened. The Tribunal found the Tenant to be credible and reliable about these matters and preferred his evidence to that of Mr Iqbal who did not appear to be well informed about the matter.

[14] At this point the Tribunal concluded that Mr Iqbal was somewhat unfamiliar with the documentation and the history of the issues before the Tribunal. Mr Iqbal also explained that the Property had recently been redecorated and this had resolved matters. He also spoke of efforts made to encourage the factor to carry out repairs to the gutters. The Tribunal noted that Mr Iqbal had not produced two actual quotes which had been sent by the factor to Mr Iqbal's office. These would have explained what it was that the Factor intended to do to actually try and fix the problem. In the absence of these, it was hard to understand what the actual plan was to try and fix the gutters. Mr Iqbal could not explain what the proposed scope of the works in the missing quotes were for either. The Tribunal was left with the impression that there was perhaps more to this whole issue than had been explained to the Tribunal by Mr Iqbal.

[15] Each party had the right to cross-examine the other at the conclusion of each party's evidence. At the conclusion of evidence each side also had the opportunity to make closing submissions and specifically draw the Tribunal's attention to the specific findings to be made or orders to be granted. At this point the tenant said the wall in the bedroom had been redecorated but not to a good standard as the damp staining was still visible. He also said he was jaded with the process of trying to get work done and was moving out of the Property. Having heard from parties and considered the evidence heard, the documentation before the Tribunal and the Tribunal's own findings at the inspection, the Tribunal makes the following findings in fact.

Findings in Fact

- I. The parties entered into a tenancy agreement in terms of which the Landlord let the Property to the Tenant by virtue of a Private Residential Tenancy Agreement which commenced in September 2020.*
- II. The Property is not wind and water tight and it does not meet the tolerable standard in that water leaks into the bathroom through the wall at the window whenever there is heavy rain.*
- III. There is staining on one of the bedroom walls of the Property as a result of a previous water leak from upstairs the cause of which has been addressed.*
- IV. The Property is infested with mice which access the Property through a hole behind the kitchen sink and underneath the boiler. The mice run along the kitchen counters. The house is not currently fit for human habitation.*
- V. On 4 and 5 November 2024, the Landlord carried out redecoration works which included re-plastering and painting of areas in the kitchen and bedroom which had been damaged by water ingress. These were largely cosmetic.*
- VI. There remains a problem with the gutters which will continue to cause water to leak into the Property.*

Reasons for Decision

[16] Having made the above findings in fact, the Tribunal considered that the Property did not meet the Repairing Standard. The Tribunal therefore made a Repairing Standard Enforcement Order.

The terms of the order are that the Landlord must:

1. Take such steps as are necessary to stop the ingress of water into the Property including cleaning and effecting such repairs to the external rainwater goods as are necessary.

2. Engage a suitably qualified pest control contractor to eradicate any vermin infestation at the Property and provide the Tribunal with evidence of all works undertaken which should include filling any holes in the kitchen to ensure no vermin can access the Property.
3. Redecorate the bedroom wall which has visible staining as a result of a previous leak from upstairs.

[17] The Landlord has two months to carry out these works.

The decision of the Tribunal is unanimous

Right of Appeal

In terms of Section 46 of the Tribunal (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 McLaughlin

Legal Member/Chair

22 November 2024

Date

Housing and Property Chamber
First-tier Tribunal for Scotland



Schedule of photographs taken during the inspection of 1/2, 7 Elizabeth Street, Glasgow
G51 1SR by the First-tier Tribunal for Scotland (Housing and Property Chamber) on
Monday 11 November 2024

Reference Number : FTS/HPC/RP/24/2325



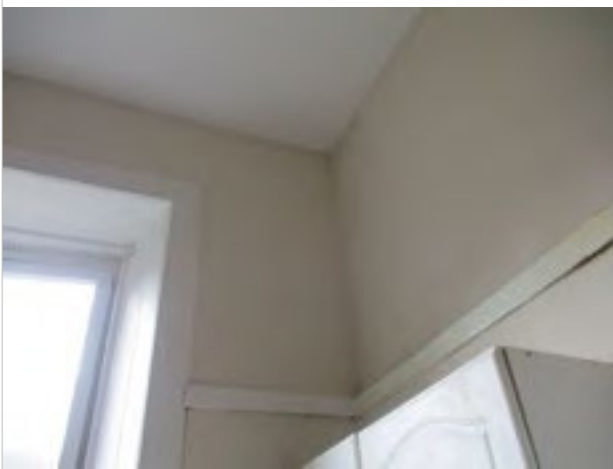
Front Elevation



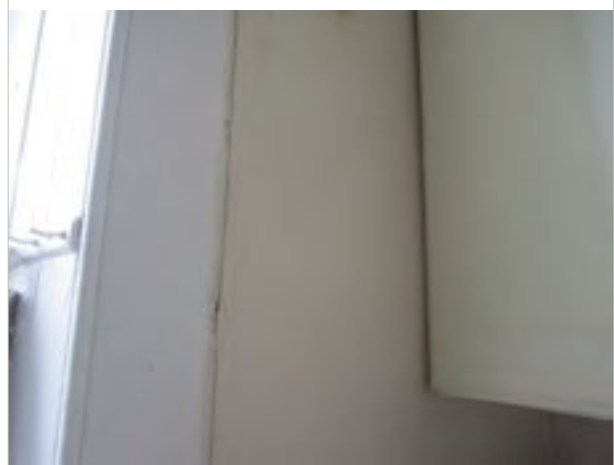
Kitchen



Kitchen - timber panelling to right side of window



Kitchen - corner area -section of walls re-plastered/re-decorated recently - some slight water staining still evident



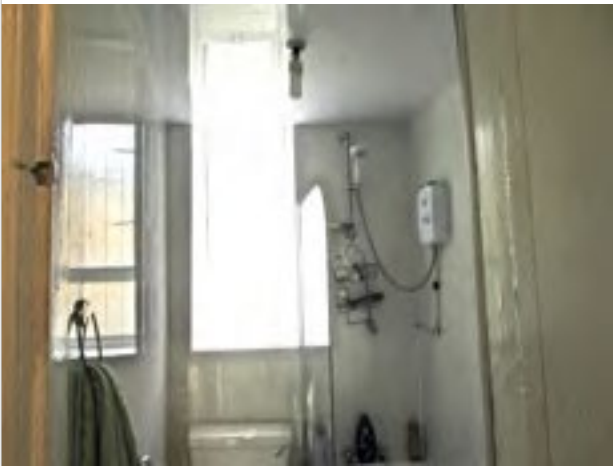
Kitchen - to right side of window/plasterboard panel on rear elevation



Kitchen - plasterboard panel to right side of window - damp meter reading - moderate in search mode



Rear Bedroom - wall adjoining kitchen - re-decorated recently - some water staining still evident



Bathroom



Bathroom - timber panelling above and around window



Kitchen - mice droppings on worktop



Kitchen - below sink at rear elevation - large gap/ exposed stonework to rear of base unit



Hall - ceiling mounted smoke detector - tested and in working order/interlinked (observation)



Kitchen - ceiling mounted heat detector - tested and in working order/interlinked (observation)



Living Room - ceiling mounted smoke detector - tested and in working order/interlinked (observation)



Kitchen - wall mounted carbon monoxide detector - does not appear to be in working order/position does not comply with guidance (observation)



External - rear elevation showing rainwater and waste pipes - staining to stonework below gutter and extending towards ground level



External - rear elevation showing kitchen and bathroom windows - extensive water staining to stonework from gutter above and between window openings