

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Sections 26 and 27

Chamber Ref: FTS/HPC/RP/24/4104

2/8,4 Hanson Park, Glasgow, G31 2HB, registered in the Land Register of Scotland under Title Number GLA170143 (“the Property”)

The Parties:-

Mr Ranjeet Kumar and Mrs Supriya Kumari, 2/8,4 Hanson Park, Glasgow, G31 2HB (“the Applicants” and “the Tenants”)

Mr Gordon Calvert, 42 Birkdale Crescent, Cumbernauld, Glasgow, North Lanarkshire, G68 0JZ (“the Respondent” and “the Landlord”)

Tribunal Members:

Mr Martin McAllister, Solicitor (Legal Member) and Mr Nick Allan, Chartered Surveyor (Ordinary Member) (“the tribunal”)

Decision

The tribunal determined:

(One) that the Landlord has failed to maintain the Property to the repairing standard as set out in Section 13 of the Housing (Scotland) Act 2006 and

(Two) that a repairing standard enforcement order (RSEO) be made in terms of Section 24 of the Housing (Scotland) Act 2006.

Background

1. By application dated 2 September 2024, the Applicants applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (“the 2006 Act”). The application is in terms of Section 22 (1A) of the 2006 Act.

2. The Applicants and the Respondent are parties to a private residential tenancy agreement dated 14 and 15 December 2018. It is a furnished let.
3. The tenancy commenced on 15 December 2018.
4. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: that any fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order and that furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
5. The application makes specific reference to the following matters:
 - 5.1 An issue with a couch.
 - 5.2 Kitchen worktop.
 - 5.3 Broken mesh on a bed.
 - 5.4 Black mould/damp issue.
 - 5.5 Microwave.
 - 5.6 Bathroom tiles.
6. On 24 October 2024, a Notice of Acceptance was issued by a legal member of the Tribunal acting under delegated powers of the Chamber President.

Property Inspection

7. The members of the tribunal inspected the Property on 13 January 2025. The Applicants were present.
8. A schedule of photographs, prepared by the Ordinary Member, is attached to this Decision and is referred to for its terms.

Findings on Inspection

9. The Property is a flatted property situated on the second floor of a purpose-built block of flats constructed around 2002. The accommodation comprises of a living room, two bedrooms, kitchenette and bathroom.
10. Mesh underneath the mattress of the bed in bedroom 2 has become detached from the bedframe.
11. There is extensive mould in the cupboard of bedroom 2.
12. There is mould on the ceiling and walls of bedroom 2.

13. No dampness (surface or embedded) was discovered, and the window trickle vents were all open.
14. There is mould on the ceiling and walls of the bathroom.
15. The MDF panel behind the WC is blown.
16. There is failure of the bath sealant and bath surround.
17. A section of the bath panel is water damaged.
18. The free-standing bathroom cabinet is rusted.
19. The extractor fan in the bathroom appears ineffective, and this is supported by the high humidity reading taken in this room despite the door being wedged open at the time of inspection and the extractor fan running. The photograph schedule attached refers.
20. The kitchen worktop is damaged and beyond its useful life.
21. There is a heat sensor in the kitchen and a smoke detector in the hallway. They are interlinked and functioning.
22. There is no smoke detector in the living area.
23. There is a functioning carbon monoxide monitor in the kitchen.
24. The couch in the living room is extensively worn and beyond its useful life.
25. There is mould around the windows in the living room and on the living room ceiling.
26. There is mould on the hallway ceiling and above the entrance door.
27. There is no microwave in the Property.

Hearing

28. A Hearing was held at Glasgow Tribunal Centre on 13 January 2025. The Respondent was not present and was not represented. Mr Kumar was present.
29. The Ordinary Member set out the findings from the Inspection.
30. Mr Kumar said that he had reported an issue with the microwave oven provided by the Respondent which had not been attended to. He said that the appliance could not be used because it was rusted and unsafe because of potential contamination of food. He said that the microwave had been disposed of by he and his wife.

31. Mr Kumar said that, following complaints to the Landlord's letting agent about mould, specialists had visited the Property. He was unsure about the identity of one specialist but was sure that Peter Cox had been at the Property on two occasions. Mr Kumar submitted a copy of a report from Peter Cox dated 19 May 2023.
32. Mr Kumar referred to the terms of the Peter Cox report. He said that it confirmed the presence of mould and condensation and that certain recommendations had been made which included installation of extractor fans. He said that the Landlord did not adopt any of the recommendations and has done no work to address the mould and condensation issues.
33. Mr Kumar said that, in relation to the kitchen worktop, the letting agent had arranged for a tradesperson to come to the Property to take measurements. He said that this was done around a year previously and the worktop has not been replaced.

Discussion and Determination

34. The tribunal considered that, since the microwave oven is no longer in the Property, it could not consider any issue with regard to it.
35. The tribunal confirmed that the findings in the Peter Cox report were consistent with its findings from the inspection that day. It is a matter for a landlord to determine the appropriate solution to any repair issues but it appeared to the tribunal that the Landlord may consider it appropriate to have regard to the findings and recommendations in the report.
36. The tribunal noted with concern that there was not a smoke detector in the living room.
37. The tribunal determined that the Property does not meet the repairing standard.
38. The tribunal determined that a repairing standard enforcement order ("RSEO") in the following terms should be made:

The Landlord is required to carry out the following works:

- 38.1 The couch in the living room is to be replaced.**
- 38.2 The bed in bedroom 2 is to be repaired or renewed.**
- 38.3 All kitchen worktops are to be renewed.**
- 38.4 The bathroom tiles are to be securely fixed and grouted to ensure that there is a waterproof seal.**
- 38.5 The small wooden panel to the rear of the bath is to be renewed and made waterproof.**
- 38.6 The free-standing bathroom cabinet is to be renewed.**

38.7 Identify the cause of and address the condensation and mould issues within the Property, and particularly those in bedroom 2 and the bathroom.

38.8 The small wooden panel to the rear of the W.C is to be renewed.

38.9 Install a smoke detector within the living room, ensuring that it is interconnected with other detectors in the Property, fully functional and meets the requirements contained within the Housing (Scotland) Acts 1987 and 2006, as subsequently amended by the Modification of the Repairing Standard Regulations 2019.

The Landlord is required to carry out the work required by the RSEO before 31 March 2025.

Reasons

39. The tribunal had regard to what it had found at the inspection of the Property.

40. The tribunal had regard to the statutory obligations imposed upon a residential landlord to ensure that properties meet the repairing standard throughout tenancies.

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.

M McAllister

Martin J. McAllister,
Solicitor, legal member of the
Tribunal.
17 January 2025