

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Section 27

Chamber Ref: FTS/HPC/RP/24/2670

13 Elms Place, Stevenston, KA20 4EF, registered in the Land Register of Scotland under Title Number AYR100415 (“the Property”)

The Parties:-

Miss Karen Moriarty, 13 Elms Place, Stevenston, KA20 4EF (“the Tenant” and “the Applicant”)

CHAP, 71 Princes Street, Ardrossan, KA22 8DG (“the Tenant’s Representative)

Matthew Harkins and Heather Coulton, 30 Strathgryffe Crescent, Bridge of Weir, Renfrewshire, PA11 3LG (“the Landlord”and “the Respondent”)

Tribunal Members:

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

Decision

The tribunal makes a repairing standard enforcement order in terms of Section 24 (2) of the Housing (Scotland) Act 2006.

Background

1. By application dated 12 June 2024, the Applicant 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 (1) of the 2006 Act (“the 2006 Act.”)

2. The Applicant and Respondent are parties to a short assured tenancy in respect of the Property. It is undated and refers to a tenancy commencing on 12 November 2015.
3. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act. Specifically, the application states that the Property has draughty windows which have condensation and mould, that the master bedroom has mould on the wall at its corners, that the toilet is leaking through to the kitchen, that the kitchen ceiling is cracked due to water damage from the leaking toilet, that the kitchen taps are leaking and have caused damage to the cabinet below and that a kitchen cabinet has been removed and not replaced. The application form further states that the Property does not have an electrical installation condition report, that the last gas safety certificate is dated 2019 and that there are no smoke alarms.
4. On 1 July 2023, a Notice of Acceptance was issued by a legal member of the Tribunal acting under delegated powers of the Chamber President.
5. This decision should be read in conjunction with the decision dated 22 October 2024.
6. An inspection of the Property had been carried out on 21 October 2024 and a hearing had been conducted on the same day.
7. A copy of an inspection report prepared by the ordinary member is attached to this decision.
8. At the hearing concerns were raised about whether the landlord had received proper intimation of the inspection and hearing.
9. The tribunal proposed that a repairing standard enforcement ("RSEO") order be made and parties were given until 8 November 2024 to make representations on it.
10. Included in the proposed RSEO was a requirement for the Landlord to produce a current electrical installation condition report ("EICR") and a current Gas Safety Certificate.
11. No representations were received from either party but an EICR and Gas Safety Certificate were submitted by the Landlord.

Decision

12. The tribunal noted the terms of the Gas Safety Certificate dated 12 July 2024 and noted that it was incomplete because the necessary registration number of the gas safe registered engineer was not entered in the section "Contractor's Registration Number".

13. Upon receipt of the EICR, the Landlord was asked to provide evidence that the electrician who had produced the report was a suitably qualified and accredited electrician and that either he or the company employing him is registered with an accredited scheme in terms of Scottish Government guidelines. No response was received.

14. The tribunal determined to make a RSEO in the following terms:

The Landlord is to

14.1 Produce to the Tribunal a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT, or other suitable accredited registered scheme, who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category. PAT testing documentation for any portable appliances supplied by the Landlord should also be produced which has been prepared by a similarly qualified and accredited electrician.

14.2 Produce to the Tribunal a current Gas Safety Certificate for the Property prepared by a suitably qualified gas engineer registered in the Gas Safe Register.

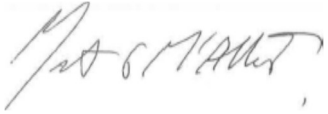
14.3 Install functional interconnected smoke detectors in the lounge, ground and first floor and a heat detector in the kitchen which meet Scottish Government guidelines.

14.4 Repair or renew the windows in the lounge, kitchen, main bedroom and bathroom to ensure that they are in good and efficient working order and draught free.

The Landlord is required to comply with the RSEO before 3 March 2025.

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.

A handwritten signature in black ink, appearing to read 'Martin J. McAllister', written in a cursive style.

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

Housing and Property Chamber First-tier Tribunal for Scotland



Pre-hearing inspection summary and schedule of photographs



Property 13 Elms Place Stevenson KA20 4EF

Ref No: FTS/HPC/RT/24/2670

Tribunal members Mr McAlister Legal member and Ms Charles Ordinary member
(Surveyor)

Purpose of inspection

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 above Tribunal Members attended the property at 11:30am on 21/10/24. The tenant Ms Moriarty gave access to the property.

Lori Charles Date 21/10/2024
BSC (Hons) MRICS

Ordinary (Surveyor) Member
First-Tier Tribunal for Scotland

Appendix 1

Schedule of photographs taken during the inspection on 21/10/24

Lounge



Seal around window has failed and a gap is noticeable between the double-glazed unit and the window frame. A draught was noted during the inspection.



A smoke detector was fitted in the lounge, ground and first floor hall and a heat detector was fitted in the kitchen. Each detector was tested and worked independently; however, no detector was interlinked.

Kitchen



A small section of the kitchen ceiling has been plastered no crack visible.



Seal around window has failed and a gap is noticeable between the double-glazed unit and the window frame. A draught was noted during the inspection.



Kitchen taps have been repaired no leak noted. New cupboard unit fitted.

Bathroom



Seal around window has failed and a gap is noticeable between the double-glazed unit and the window frame. A draught was noted during the inspection.



High moisture readings noted around toilet.

Main bedroom



Seal around window has failed and a gap is noticeable between the double-glazed unit and the window frame. A draught was noted during the inspection.



Mould noted on bedroom wall - moisture readings taken were all within a normal range.