

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 26(1)

Chamber Ref: FTS/HPC/RT/18/1182

**Flat Basement Left, 292 Langside Road, Glasgow, G42 8XW
("the Property")**

The Parties:-

**Mr Mark Demeter, formerly residing at the property
("the former Tenant")**

**Glasgow City Council, Development and Regeneration Services, 3rd Floor
Samaritan House, 79 Coplaw Street, Glasgow, G42 7JG
("the Third Party")**

**Mr Naveed Shakoor, 133 Titwood Road, Glasgow, G41 4BN
("the Landlord")**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal")
comprised:-**

Patricia Anne Pryce - Chairing Legal Member

Donald Wooley - Ordinary Member (Surveyor)

Background

1. On 16 August 2018, the tribunal issued a determination which stated that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"). On the same date, the tribunal issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property. The RSEO made by the tribunal required the Landlord:-
 - (a) To repair or replace the floor in the hallway to ensure that it is in a reasonable state of repair and in proper working order.

- (b) To produce an Electrical Installation Condition Report from a SELECT, NICEIC or NAPIT registered electrician in respect of the property and to undertake any work which is identified in said report to be of Category C1 or C2.
- (c) To produce a Gas Safe certificate from a Gas Safe registered engineer in respect of the property.
- (d) To install a shower curtain or suitable screening around the shower fitting located in the bath so that it is in a reasonable state of repair and in proper working order.
- (e) To install satisfactory provision for the detection of carbon monoxide levels ensuring that such detection is located in accordance with current regulations.

The tribunal ordered that the works specified in the RSEO were to be carried out and completed within 28 days from the date of service of the RSEO, that is, by 19 September 2018.

- 2. A further inspection of the property was undertaken by the Ordinary Member (Surveyor) of the tribunal on 20 November 2018. A copy of his inspection report dated 20 November 2018 is attached. The Landlord did not attend at the inspection nor did he arrange for anyone to attend to allow the Ordinary Member to gain access to the property. The Ordinary Member could not therefore make comment on any of the internal works which had been required to the property. The tribunal has not received an Electrical Installation Condition Report nor has it received a Gas Safe Certificate.
- 3. The Landlord was provided with a copy of the Ordinary Member's re-inspection report and given the opportunity to comment thereon. In addition, the Landlord was afforded a further opportunity by the tribunal to arrange another inspection of the property. He failed to do so.

Decision

- 4. The tribunal takes the view that the Landlord has had ample time to carry out the works. The tribunal noted that in terms of the application itself, the Third Party first wrote to the Landlord about the present repairs issues in March 2018. The Landlord was given the opportunity to comment on the Ordinary Member's re-inspection report but failed to respond.
- 5. Accordingly, the tribunal takes the view that the Landlord's failure to implement the RSEO amounted to a breach of the RSEO. In accordance with the relevant provisions of Section 26 of the 2006 Act, the tribunal required to determine whether a Rent Relief Order should be made. However, the Tenant vacated the property and therefore no Rent Relief Order could be made.
- 6. The tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the RSEO in relation to the property, determined that the Landlord has failed to comply with the

RSEO in terms of Section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the property is situated.

7. The decision of the tribunal is unanimous.

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.

P Pryce

**Signed
Patricia Anne Pryce, Chairing Legal Member**

Date 22 January 2019

Housing and Property Chamber

First-tier Tribunal for Scotland



First-Tier Tribunal for Scotland (Housing and Property Chamber) Re-inspection report



Property Basement Left, 292 Langside Road, Glasgow, G42 8XW

Ref No: FTS/HPC/RT/18/1182

Surveyor: Donald Wooley MRICS

Previous Inspection

The subject property was previously inspected on 16th August 2018 by the First-tier Tribunal for Scotland (Housing Property Chamber) and as a result, a Repairing Standard Enforcement Order was served on 16th August 2018.

Access:

A re-inspection of the subject property was arranged for Tuesday 20th November at 10.00 am. I arrived at the property shortly before the appointed time and confirmed my arrival with the administration section at 1 Atlantic Quay Glasgow by telephone.

The property was found to be unoccupied. With the exception of Paul Walsh of Securigroup Ltd, there were no other people in attendance. The observations of the property are therefore based on an external inspection from the public road. Access

was gained to the common close and stairwell leading down to the basement property although no internal inspection was possible. Weather conditions at time of inspection were a combination of sunshine and showers.

I left the property at 10.20 am and confirmed my departure with administration.

Purpose of re-inspection

The purpose of this re-inspection was to determine if the required works as detailed under the Repairing Standard Enforcement Order had been completed.

Work required under the Repairing Standard Enforcement Order:

The following works were required to be completed by the landlord in accordance with the Repairing Standard Enforcement Order:

- (a) To repair or replace the floor in the hallway to ensure that it is in a reasonable state of repair and in proper working order.



*Condition as at **16th August 2018***

- (b) To produce an Electrical Installation Condition Report from a SELECT, NICEIC or NAPIT registered electrician in respect of the property and to undertake any work which is identified in said report to be of Category C1 or C2.
- (c) To produce a Gas Safe certificate from a Gas Safe registered engineer in respect of the property.
- (d) To install a shower curtain or suitable screening around the shower fitting located in the bath so that it is in a reasonable state of repair and in proper working order.



*Condition as at **16th August 2018***

- (e) To install satisfactory provision for the detection of carbon monoxide levels ensuring that such detection is located in accordance with current regulations.

Site Observations:

- (a) From an external inspection I was unable to confirm if the flooring in the hallway has been repaired.
- (b) No Electrical Installation Condition Report (EICR) has been produced or forwarded to the Tribunal.
- (c) No Gas Safe certificate has been produced or forwarded to the Tribunal.
- (d) I am unable to confirm if a shower curtain or other suitable screening around the shower fitting has been installed
- (e) I cannot confirm if a suitably positioned and functioning carbon monoxide detector has been installed.

Outstanding Repairs:

I am unable to confirm that any of the repairs as detailed in the Repairing Standard Enforcement Order dated 25th January 2017 have been completed.

Other Issues:

The property was vacant at the time of the inspection although I cannot confirm that it is permanently unoccupied. In the communal area of the basement there was a pile of debris / rubbish, including food matter, which if left will become a health hazard. The surrounding walls at this area are also covered in graffiti.



Communal basement area 20th November 2018

Comments:

This report will be passed to the parties for comment before being submitted to the First-tier Tribunal for Scotland (Housing Property Chamber) for their decision.

Donald Wooley MRICS
Ordinary Member
First-Tier Tribunal for Scotland
20th November 2018