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/RP/17/0239

Flat 1R, 6 Tait's Lane, Dundee, DD2 1EB ("the Property")

The Parties:-

Miss Naomi Culpin, formerly residing at Flat 1R, 6 Tait's Lane, Dundee, DD2 1EB.
("the Former Tenant")

Mr Allan Munn, 520 Sandyhills Road, Glasgow, G32 9UA ("the Landford")

Decision

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 has complied with the duty imposed by Section 14(1)(b) in relation to the Property, and taking account of the evidence led by the Landlord at the hearing, determined that the Landlord has not failed to comply with the duty imposed by Section 14(1)(b) of the Act.

Background

- 1. By application, which application comprises documents received between 26th June and 21st August 2017, ("the application") the Former Tenant applied to the Housing and Property Chamber for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
- 2. The application by the Former Tenant stated that the Former Tenant considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard and in particular that the Landlord has failed to ensure that:-
 - (a) The structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.

- (b) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
- (c) Any fixtures, fittings and appliances provided by the Landlord under the Tenancy are in a reasonable state of repair and in proper working order.
- 3. By letter dated 28th August 2017 the Convener of the Housing and Property Chamber intimated a decision to refer the application under Section 22(1) of the Act to a tribunal.
- 4. The tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Former Tenant.
- 5. Following service of the Notice of Referral the Landlord made written representations to the Tribunal by e-mail dated 20th September 2017 in terms of which the Landlord stated (i) that the Former Tenant had vacated the Property, (ii) that the Landlord no longer employed Rockford Properties as his Property Managers, (iii) that the Property is currently occupied on a rent free basis by a relative studying at Dundee University, and (iv) that he would be unavailable for the inspection and hearing scheduled for 17th October 2017 and the Landlord therefore sought a postponement thereof.
- 6. On 16th October 2017 the tribunal issued a Notice of Direction granting the Landlord's request for a postponement of the inspection and hearing.
- 7. By e-mail dated 24th October 2017 the Former Tenant confirmed having vacated the Property on 25th August 2017. By Minute of Continuation dated 7th November 2017 the tribunal resolved to continue with the application in terms of Schedule 2, Paragraph 7 (3) of the Housing (Scotland) Act 2006.
- 8. The tribunal, comprising Miss Gillian C Buchanan, Legal Member and Chairperson, and Mrs Susan Napier, Ordinary Member, inspected the Property on the morning of 9th November 2017. The Landlord was present during the inspection. Miss Sarah Wadsworth, the present occupant of the Property, was also present during the inspection. Photographs taken during the inspection are attached.
- 9. Following the inspection of the Property the tribunal held a hearing at Caledonian House, Greenmarket, Dundee, DD1 4QX and heard from the Landlord.
- 10. The Landlord submitted as follows:
 - (a) That the Former Tenant had occupied the Property for approximately one year and was a student.
 - (b) That the washing machine viewed by the tribunal at the inspection was the same washing machine that existed in the Property during the Former Tenant's period of occupation. A contractor employed by the Landlord's former representatives, Rockford Properties, had told the Former Tenant to clean the washing machine.

- (c) That the garden is a shared garden serving the various flats in the block. Approximately 3 to 4 years ago the Landlord laid turf and planted some plants and rhubarb. Whilst untidy as a consequence of none of the occupants of the properties in the block maintaining the garden, no further action is required.
- (d) That with regard to the extractor fan in the bathroom a contractor previously examined the extractor fan and never reported any infestation of any sort. The Former Tenant was advised to contact the local authority should there be any infestation which she did not do.

The Landlord also produced to the tribunal a copy of an Electrical Installation Condition Report dated 23rd March 2017 prepared by Care Electrical Contractors Limited, Office 3, North Tay Centre, 48 Loons Road, Dundee, DD3 6AP a copy of which is attached.

Summary of the Issues

- 11. The issues to be determined are:-
 - (a) Whether the washing machine is in a reasonable state of repair and in proper working order;
 - (b) Whether the bathroom tap is in a reasonable state of repair, in proper working order and safe to use;
 - (c) Whether the plug in the bath is in a reasonable state of repair and in proper working order;
 - (d) Whether the garden is in a reasonable state of repair;
 - (e) Whether the ceiling extractor fan in the bathroom is in a reasonable state of repair and in proper working order; and
 - (f) Whether the water tank and immersion heater are in a reasonable state of repair and in proper working order

Reasons for the Decision

12. The Property is a first floor flat forming part of a 3 storey tenement. The Property is accessed from a common entrance door leading from Tait's Lane along a common corridor and up a common stairwell.

On the date of the inspection by the tribunal it was fair and dry.

The tribunal examined the washing machine in the kitchen. There was no foul smell from the washing machine and the occupant of the Property, Miss Sarah Wadsworth, confirmed that the washing machine operated correctly and that whilst she had required to clean the washing machine on moving into the Property she had

encountered no other issues. It was noted that the washing machine also operates as a tumble dryer but Miss Wadsworth did not use it for that purpose. The tribunal was satisfied that the washing machine is in a reasonable state of repair and in proper working order and conforms to the Repairing Standard.

There is no gas supply in the Property and therefore no boiler despite the terms of the application. The tribunal examined the water tank located within the cupboard in the kitchen, the immersion heater for which is operated by a switch located outwith the cupboard and situated to the right thereof immediately above the kitchen worktop. Ms Wadsworth confirmed that she tends to keep the immersion heater on all the time and she had encountered no issues with it.

The tribunal noted the heaters throughout the flat to be panel style heaters mounted on the walls with thermostats attached thereto. Having regard to the information provided by Miss Wadsworth and also having regard to the terms of the Electrical Installation Condition Report subsequently produced by the Landlord and dated 23rd March 2017 prepared by Care Electrical Contractors Limited, the tribunal was satisfied that the water tank and immersion heater therefor are in a reasonable state of repair and in proper working order, and therefore conform to the Repairing Standard.

Within the bathroom, the tribunal operated the plug in the bath which opened and closed correctly. The tribunal also operated the hot and cold taps for both the bath and the adjacent wash hand basin. Whilst the tribunal observed that the hot tap for the wash hand basin was very slightly loose, the taps all operated correctly producing an acceptable flow of hot and cold water. The mixer tap at the wash hand basin heated with the flow of hot water through it but that was entirely to be expected and it cooled when the cold water tap was turned on thereby reducing the temperature. The tribunal was satisfied that the bath plug and taps in the bathroom are in a reasonable state of repair and in proper working order.

The tribunal noted the ceiling extractor fan within the bathroom to operate correctly. There was no evidence of any infestation and Miss Wadsworth confirmed that there had been no worms or maggots coming therefrom. The tribunal was satisfied that the extractor fan is in a reasonable state of repair and in proper working order and meets the Repairing Standard.

The tribunal examined the garden to the rear of the tenement. The garden comprises some borders and what would previously have been an area of turf most of which was overgrown with weeds and was generally untidy and unkempt. However, the tribunal did not consider that the condition of the garden breached the Repairing Standard.

Decision

- 13. The tribunal accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14(1)(b) of the Act.
- 14. The decision of the tribunal was unanimous.

Right of Appeal

15. 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.

Effect of section 63

Chairperson

16. 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.

G Buchanan

Signe	d				
Date		<u>.29</u>	News	Aber	2017

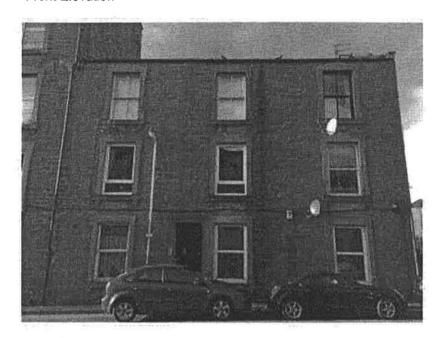
Reference FTS/HPC/RP/17/0239

Appendix 1

Property – FLAT 1R, 6 TAIT'S LANE, DUNDEE DD2 1EB

Inspection Report 10 November 2017 - Photographs

Front Elevation



Washing machine



Wash hand basin mixer tap in Bathroom



Bath plug fitted in place



Extract fan in bathroom ceiling



FTS/HPC/RP/17/0239

Switch for water heater in kitchen



Hot water cylinder with immersion heater in kitchen cupboard

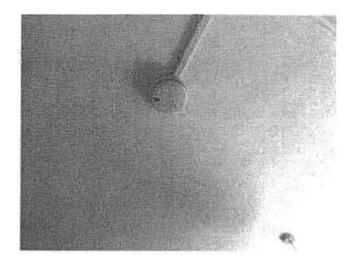


Cupboard door to water heater



FTS/HPC/RP/17/0239

Smoke detection system



Rear shared garden



Photographs taken by Susan Napier, Ordinary Surveyor Member 10 November 2017 at 10am

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APPROVED CONTRACTOR

Contractor's Reference Number

ELECTRICAL INSTALLATION CONDITION REPORT FOR SMALL INSTALLATIONS NOT EXCEEDING 100 A

CRN/ TYPE OF INSTALLATION The appropriate box Domestic diwelling In Highway Installati Details of the Client Client Cocked	Issued in accordance with British Standard 7877 - Requirements for Decision by an Approva Contractor or Conforming Body enrolled with NICEC, Warwick House, Moughton Regis, Dunstable 115 SZX. Inspection with British Standard 7877 - Requirements for Decision by an Approva Contractor or Conforming Body enrolled with NICEC, Warwick House, Moughton Regis, Dunstable 115 SZX. EXTENT OF THE INSTALLATION AND LIMITATIONS ON THE INSPECTION AND TESTING Extent of the electrical installation covered by this report SO O CIRCUITS SO O CIRCUITS
ander	s including the
PURPOSE OF THE REPORT Purpose Purpose for which	Agreed with: ROCKOLD Operational limitations including the reasons (see page No. ——)
report is FOR RECORDS	ZONA
Date(s) on which inspection and testing were carried out $23/3/7$	The inspection and testing have been carried out in accordance with BS 7671, as amended. Cables concealed within trunking and conduits; or cables and conduits concealed under floors; in inaccessible roof spaces and generally within the fabric of the building or underground, have not been visually inspected unless specifically agreed between the client and inspector prior to the inspection.
DETAILS OF THE INSTALLATION Occupier: TENFANT	SUMMARY OF THE CONDITION OF THE INSTALLATION General condition of the installation (in terms of electrical safety):
Address: 6 1/12 TATTS LANE Postcode: 002/185	SAMSFACTION
Estimated age of the Solve years Evidence of alterations yes estimated per previous of previous Percentage of the estimated of additions. Solve estimated per previous age per per per per per per per per per pe	Surmary of the condition of the installation cominued on additional pages? No Let Yes Specify page No(s): Overall assessment indicates that dangerous of the installation: Of the installation: Delate as appropriate Operations been identified, or that further investigation without dalay (H) is required

Page 1 of 6

This report should have been reviewed and confirmed by the registered Qualified Supervisor of the Approved Contractor responsible for issuing it. (See declaration on page 2)
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ELECTRICAL INSTALLATION CONDITION REPORTFOR SMALL INSTALLATIONS NOT EXCEEDING 100

Additional pages? No Yes Specify page No(s): Immediate remedial action required for items: † One of the following codes, as appropriate, has been allocated to each of the observations made above to indicate to the person(s) responsible for the installation the degree of urgency for remedial action. Code CI Panger present. Risk of injury. Immediate remedial action required. Code CI Potentially dangerous: Urgent remedial ection required. Code CI Potentially dangerous: Urgent remedial ection required. Code CI Improvement recommended. Code CI Turber investigation required without delay.			Item No Observation(s) include reference location as appropriate 1	There are no items adversely or The following observations and affecting electrical safety recommendations for action are made
			Code	page

In the person(s) responsible for the inspection and testing of the installation less indicated by my/sur signatures below), particulars of described on page 1, having exercised reasonable skill and care trying out the inspection and testing, hereby declare that the in this report, including the observations and the attached provides an accurate assessment of the condition of the electrical testing into account the stated extent of the installation and the signal on the inspection and testing.

nt of the installation in terms of its suitability for combineed er declare that in my/our judgement, the overall ITISFACTORY / Delete as appropriate

sfactory' assessment indicates that dangerous (CODE C1) and/or as recommended within the time interval given below. the inspection was carried out, and that it should be further

on without delay (A) is required IN, TESTING AND ASSESSMENT BY dangerous (CODE CZ) conditions have been identified, or that Further

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Supervisor for the Approved Contractor)

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(Error distance) in terms of years or meants, as appropriate)

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Page 2 of

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Please see the reverse of this page for guidance regarding the Classification codes.

CONTRACTOR

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* All boxes must be completed indicates Acceptable

"LIM" indicates Acceptable condition

SCHEDULES AND ADDITIONAL PAGES

Schedule of Inspections:

Page(s) No.4, 5

Special installations or locations:

Additional pages, including data sheets for additional source(s):

Page No(s) Page No(s)

Schedule of Circuit Details for the Installation: Page No(s)

6

Schedule of Test Results for the Installation:

Page No(s)

The pages identified are an essential part of this report. The report is valid only if accompanied by all the schedules and additional pages identified above

Outcome
Provide additional comment where appropriate on attached numbered sheets.
C1, C2, C3 and F1 coded terms to be recorded in Page 2 of the report.

Page 5 of 6



DETAILS OF NICEIC APPROVED CONTRACTOR

Trading title: CARE

CHIBITED

CANDACTES

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ELECTRICAL INSTALLATION CONDITION REPORT FOR SMALL INSTALLATIONS NOT EXCEEDING 100

Description Descri

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Unacceptable condition
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Of, C2, C3 and R coded items to be reconsted in

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Further investigation required without delay state FI

Options Provide additional comment where appropriate on attached numbered sheets. Of, C2, C3 and FI coded items to be reported in Page 2 of the report.

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ELECTRICAL INSTALLATION CONDITION REPORT FOR SMALL INSTALLATIONS NOT EXCEEDING 100 A

TRANSPORTABLE UNIT DETAILS Model name and year	Supply voltage(s) and maximum load/demand	, R.	Headile supply cable	VEHICLE DETAILS Type: Tourns State PARTICULARS OF VI	Conductor CCREC material CREC Conductor CREC Conductor Commaction csa C mm² connection verified	PARTICULARS OF IN Means of earthing Distributor's facility Installation earth electrods	II &	SUPPLY CHARACTERISTICS System type(s) Num 1-phase (2-wire) 3-phase
NIT DETAILS	m Nominal veltage(s) U _e	Discourse (A. Location	System type: IT For direct connection Installation earth electrock details: Teactic acrosici	VEHICLE DETAILS Tipe: Tourns Static Models Models Manufacture PARTICULARS OF VEHICLE INSTALLATION ORTRANSPORTABLE UNITS	Signal Control of the	Type (eg rodis). Electrode resistance, R _A	Person page	Number and type of live conductors 1-phase [2-wire] 3-phase 3-phase 3-phase
Description	U Maximum permitted load		Means of earthing System type: TN-S details Connection to 3-7 Supervisor is	Model TRANSPORTABLE UNITS	Main protective bonding conductors and bonding of extraneous-conductive-parts connection Conductor CREC Conductor csa C reffied Location Location where not obvious)	Details of installation earth electrode (where applicable) Location Method of measurement	Single-phase Prospective fault current L	Number of supply param
	permitted kVA/ Gas service	loop impedance, Z. Chasis Soop impedance, Z. Water	ystem type: TN-S TN-CS (for some conductor vehicles or connection to 3-7-C-S system; requires units) supervision (see regulation 717 411.4)	Registration (moto	Conductor man Oil installation csa csa can be consulted on csa	Projective measure(s) for fault projection	165 KA 39-1	With Sign of S
	vice Canductor material	Conductor material Conductor material	Conductor marerial	ng and protective bonding conductors	Structural street co	Measured Z. O- 14 2 Maximum 7 KVA/ demand (Load) 7 KVA/ Amps Number of 3 smoke elerms 3	\$	which the second
	Conductor mm2 conjustsy verified.	Conductor mm ² Connectors conductors conductors conductor mm ² Connectors conductor mm ² Conductors conductors conductors can be conducted to conduct can be conducted to conducted to conduct can be conducted to conducted t	Conductor mm ² Connection csa	TS a anate and ontar details as appropriati	16 mm?	Main Switch/Switch-Fase/Circuit-Breaker/RCD Type 6/00 S Voltage 230 BS(EN) 6/00 S rating 230 No of Pared Current, 1-2 Supply 200 RCD operating 230	Rated current 7 A polarity	Characteristics of primary supply overcurrent protective device(s) BS(EN) 36 Short-circuit capacity These 7 Confirmation
Megan kilo la la	יבע	1000 1000 1000 1000 1000 1000 1000 100	Try of	эргерлівні	1 5 6 C	The State of the S	\ \ \ \	Tal (To the person o

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