

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 26 (1) of the Housing (Scotland) Act 2006

**Property: Flat G/2 or Westmost Ground Floor Flat, 4 Tullideph Road,
Dundee DD2 2PN (“the Property”)**

Chamber Reference: FTS/HPC/RP/17/0288

**Mr Mark McKay, sometime residing at Flat G/2 or Westmost Ground
Floor Flat, 4 Tullideph Road, Dundee DD” 2PN (“the Tenant”)**

**Mr Norman Pollock, residing at 16 Benvie Road, Fowlis, by Dundee DD2
5SA (“the Landlord”)**

**Tribunal Members –Mr George Clark (Legal Member/Chair) and Mrs Sara
Hesp (Ordinary Member/Surveyor)**

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 carried out the works required by the Repairing Standard Enforcement Order (“the Order”) made in respect of the Property on 2 November 2017, determined that the Landlord had not carried out the works but that, as the Property was currently undergoing major renovation, the Order should be varied to allow an additional period for the work required by the Order to be carried out.

Background

1. On 2 November 2017, the Housing and Property Chamber of the First-tier Tribunal for Scotland determined, following an inspection and hearing, that 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 Tribunal made a Repairing Standard Enforcement Order requiring the Landlord:
 - (a) To provide an Electrical Installation Condition Report (EICR) showing the electrical installation reaches a satisfactory standard with no C1 or C2

items reported and it to be dated after the date of the inspection by the Tribunal. The aforesaid EICR should be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor

(b) To replace the sealant around and behind the sink in the kitchen to ensure that it is in good order and that further damage is not caused by the condition of the sealant,

(c) To provide smoke detectors in the hall and living room and a heat detector in the kitchen to ensure the house has satisfactory provision for giving warning in the event of fire or suspected fire. This should be in accordance with the Domestic Technical Handbook (revised 2016) as issued by the Scottish Government,

(d) To re-plaster the living room ceiling and make good any decoration that is affected by undertaking this,

(e) To replace all worn and holed carpets in the living room and bedroom so that they are capable of being used safely,

(f) To ensure that the bathroom fixtures, fittings and appliances provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed, namely the shower unit, bath panel and the extractor fan (including attaching a grill to the external end of the extractor fan outlet),

(g) To replace and make good the tiles on the bathroom wall adjacent to the shower unit,

(h) To replace the sealant around bath to ensure that it is in good order and ensure that further damage is not caused by the condition of the sealant,

(i) To repair the light switch in the hall such that the light switch is in proper working order,

(j) To replace and fit the bedroom door handle such that the door handle is in proper working order.

3. The Tribunal reinspected the Property on the morning of 4 April 2018. The Landlord was present at the reinspection. The Tenant, having vacated the Property was not present or represented at the reinspection. A Schedule of Photographs, taken at the reinspection, is attached to and forms part of this Statement of Decision

The Hearing

4. Following the inspection, the tribunal held a hearing at Kirkton Community Centre, Derwent Avenue, Dundee DD3 0AX. The Landlord was present at

the hearing. The Tenant, having vacated the Property, was not present or represented at the hearing.

Findings of fact

5. The tribunal makes the following findings of fact:
 - The Property is currently undergoing major renovation.
 - There is a smoke detector in the hall, but there are no smoke detectors elsewhere in the Property and there is no heat detector in the kitchen. The light switch in the hall appears to have been repaired.
 - Due to the current state of the renovation work, the Tribunal was unable to test the smoke detector or to determine whether the light switch was in working order.
 - None of the other work required by the Order has been carried out.

Reasons for the decision

6. At the hearing, the Landlord advised the Tribunal that the renovations currently under way included replastering the living room ceiling, replacing a damp floor joist which ran from front to back of the Property, passing through the living room, bathroom and bedroom, replacement of a portion of flooring in the living room, recarpeting and redecoration of the living room, partial reflooring and replastering of the bathroom, with the installation of new downlighters, a new bathroom suite, shower and extractor fan, reflooring and strapping and plastering of the bedroom ceiling, new kitchen units, a new central heating boiler and new radiators throughout. It was a full renovation and the Landlord anticipated that the work would hopefully be completed in 4-5 weeks but certainly within 2 months.
7. The Landlord also advised the Tribunal that he would be installing a new electrical consumer unit, new wiring and lighting and the Tribunal reminded him that it would need to see an Electrical Installation Condition Report in terms of the Order, dated after the completion of the installation.
8. The Tribunal determined that it was reasonable to permit a further period of time to allow the Landlord to complete the renovation work and that the Order should be varied to extend the period for completion of the work to 8 weeks after the date of intimation to the Landlord of the Variation.
9. The decision of the tribunal was unanimous.

Right of Appeal

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.

George Clark

Signed Legal Member/Chairperson
Date: 4 April 2018

This is the Schedule of Photographs
referred to in the foregoing
Statement of Evidence dated 4/4/18
George Clark
Housing Tribunal/Chair

**Housing and Property Chamber
First-tier Tribunal for Scotland**



**FTS/HPC/RP/17/0288
Schedule of photographs taken during inspection of
Flat G/2 or Westmost, 4 Tullideph Road, Dundee DD2 2PN**

Photograph 1: Living room ceiling



Photographs 2 and 3: Living room – wall and floor



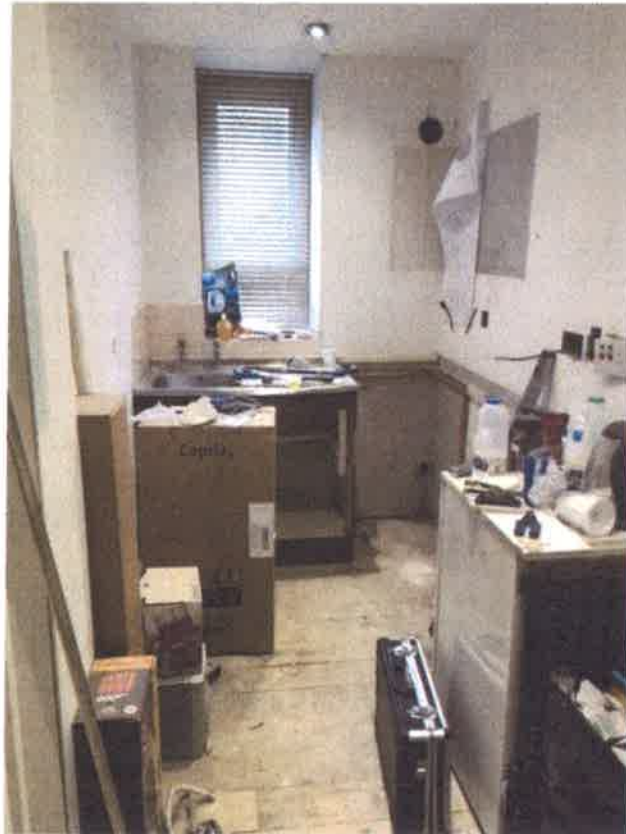
Photograph 4: Hallway: Smoke detector



Photograph 5: Hallway: light switch



Photograph 6: Kitchen



Photograph 7: Kitchen sink



Photograph 8: bathroom



Photograph 9: Bathroom: external outlet



Photograph 10: bedroom

