

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision under: Housing (Scotland) Act 2006 Section 26(1)

Chamber Ref: PRHP/RP/16/0030

Title no/Sasines Description: Title number MID56296

**41 Albert Street, Edinburgh, EH7 5LN
("The House")**

The Parties:-

**Gary Warren, formerly residing at 41 Albert Street, Edinburgh, EH7 5LN, whose current whereabouts are unknown
("the Tenant")**

Mr Leonard Scott McAllister and Mrs Caroline Yin Oi McAllister, residing at 17/2 Waverley Park, Edinburgh, EH8 8ER, successors in title to Ms Huma Malik, residing at 17-19 Spittal Street, Edinburgh, EH3 9DY and previously residing at 5 Keppock Crescent, Prestonpans, EH32 9FN ("the Landlord")

Tribunal members

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') members are Susanne Tanner, Q.C., legal member and chairperson; and Susan Napier, surveyor and ordinary member.

Decision

2. On 20 March 2017, the tribunal, having inspected the house in respect of which its predecessor, the Private Rented Housing Panel ("PRHP") Committee, had made a Repairing Standard Enforcement Order ("RSEO") which was served on 1 June 2016 and registered 28 June 2016; and being satisfied that the work required by the order has been completed, and the period within which the order required the work to be carried out had ended, decided that the landlord had complied with the RSEO and certified that the work has been completed in terms of Section 60 of the Housing (Scotland) Act 2006.
3. The decision of the tribunal was unanimous.

Background

4. On 23 May 2016 the Committee of the PRHP inspected the house and a hearing took place. On the same date the Committee made a determination in terms of Section 24 of the Housing (Scotland) Act and issued a RSEO in respect of the house, in that it failed to meet the repairing standard in the specified respects. The Committee required the Landlord:-
 - a. To overhaul the windows in the property and in particular to repair or replace the sash cords to ensure the windows open and close and to fit security locks to the windows.
 - b. To repair or replace the cooker in the property and to provide an up to date electrical safety certificate.
5. The RSEO was served on the landlord on 1 June 2016 and registered in the Land Register on 28 June 2016. The works specified in the RSEO were required to be carried out within a period of 12 weeks from the date of service of the notice.
6. On 15 July 2016 the previous proprietor of the house Ms Huma Malik, residing at 17-19 Spittal Street, Edinburgh, EH3 9DY and previously residing at 5 Keppock Crescent, Prestonpans, EH32 9FN, sold the house to Leonard Scott McAllister and Caroline Yin Oi McAllister, 17/2 Waverley Park, Edinburgh, EH8 8ER.
7. It is understood from information provided by the new landlord that the tenant, Mr Gary Warren, remained in occupation in the house for a period of time after the sale.
8. A re-inspection survey was carried out on Monday 17 October 2016 by Susan Napier, surveyor, then PRHP Committee surveyor member. The landlord Mr McAllister was in attendance. Reference is made to the Re-inspection Report dated 21 October 2016, which includes a schedule of photographs.
9. The house did not appear to be occupied at the time of the re-inspection on 17 October 2016. According to information provided by the landlord on that date, the tenant Gary Warren had left the property and moved to London, albeit that the tenancy was not due to expire until November 2016. The tenant's present whereabouts are unknown.
10. As noted in the said Re-inspection Report the surveyor member found that new double glazed windows had been installed throughout the flat, with security locks; and that a new cooker had been installed. The Landlord was planning to undertake additional work. The up to date Electrical Safety Report had not been obtained at that time.
11. The surveyor member of the PRHP Committee recommended in the Re-inspection Report that as the remaining work required in terms of the RSEO was due to be completed in November 2016, the Landlord should thereafter provide an Electrical Safety Report and send photographs of the completed work.

12. After the said re-inspection a Domestic Electrical Installation Certificate dated 23 November 2016 was provided by the landlord to the then PRHP offices to confirm that the electrical installation work at the house has been designed, constructed and inspected and tested in accordance with BS 7671 (as amended) (The IET Wiring Regulations).
13. The Committee of the PRHP became the tribunal with effect from 1 December 2016.

Re-inspection and Hearing – 20 March 2017

14. The tribunal carried out a further re-inspection on Monday 20 March 2017. The Landlord was in attendance, together with his property letting Agent.
15. The tribunal members observed that the property appeared to be let and occupied despite the RSEO. The Landlord confirmed that there was a tenancy in place at the current time but no further information was provided as to the start date of the tenancy or identity of the tenant.
16. During the inspection the following works (in addition to those which were observed at the re-inspection in October 2016) were observed:
 - a. the replacement free-standing cooker which was present at the re-inspection in October 2016 had been further replaced with a built-in appliance as part of the installation of a new kitchen;
 - b. central heating had been installed in the property;
 - c. smoke alarms had been fitted in the kitchen, bedroom and hall; and a carbon monoxide alarm had been fitted in the kitchen, in which the new gas boiler was situated.
17. Photographs were taken during the re-inspection on 20 March 2017 and are incorporated in a schedule in Appendix 1.
18. Following the re-inspection a hearing took place at George House Room D8 at 11.30. The Landlord did not attend. The Tenant did not attend. The tribunal proceeded to make a decision based upon the findings at the two re-inspections, the production of the electrical certificate and written and oral information provided by the Landlord.
19. The tribunal determined that the requirements specified in the RSEO, including the production of an up-to-date electrical safety certificate, have been completed satisfactorily and that the Landlord has complied with the RSEO. The tribunal decided that the house now meets the repairing standard, a Certificate of Completion can be issued and the RSEO can be discharged.

A landlord, tenant or third party applicant 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.

Signed **S Tanner**Susanne L M Tanner, Queen's Counsel
Legal Member and Chairperson of the tribunal

Date 23 March 2017.....

**HOUSING & PROPERTY CHAMBER FIRST-TIER TRIBUNAL FOR
SCOTLAND**

PRHP/RP/16/0030 - 41 ALBERT STREET, EDINBURGH EH7 5LN

PHOTOGRAPHS OF REINSPECTION 20 MARCH 2017 AT 1000

LIVING ROOM – new heating system



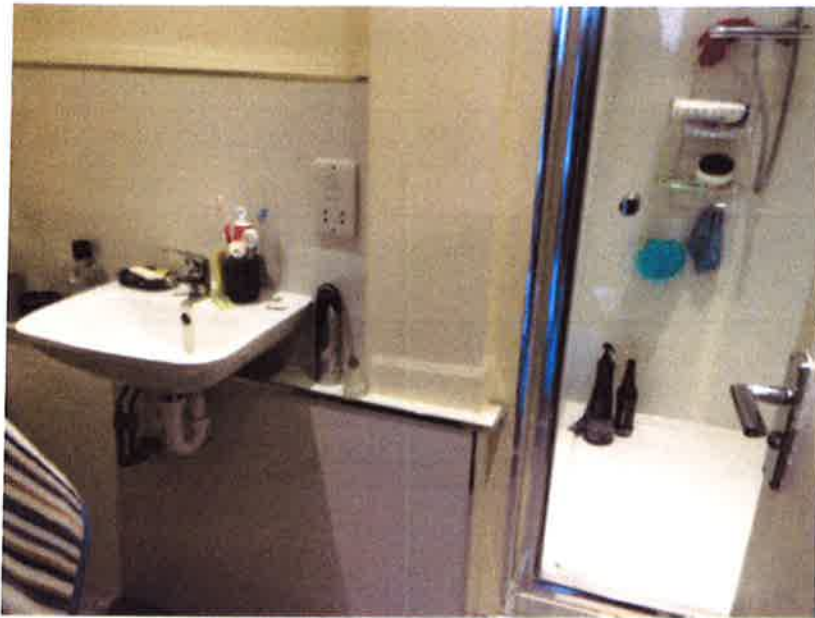
KITCHEN - new cooker and units



HALL – new smoke detection system



BATHROOM – new sanitary fittings



BEDROOM – new heating system



SMOKE DETECTION SYSTEM – heat detector in kitchen



CARBON MONOXIDE SYSTEM – CO detector



**Susan Napier BSocSc FRICS
Ordinary Member**