

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: PRHP/RP/16/0253

Re: Property at Flat 3/2 81/6 Causeyside Street, Paisley PA1 1YU ("the Property")

Title No: REN 35718

The Parties: -

Toni Brown, formerly residing at Flat 3/2 81/6 Causeyside Street, Paisley, PA1 1YU ("the former Tenant")

Chestnutt Skeoch Ltd, 30 East Main Street, Darvel, KA17 0HP ("the Landlord")

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 had complied with the duty imposed by Section 14(1)(b) of the Act, determined that the Landlord had complied with said duty.

The Tribunal comprised: -

Mrs Josephine Bonnar, Legal Member

Mr Andrew Taylor, Ordinary Member

Background

1. By application received on 21 July 2016 the former Tenant applied to the Private Rented Housing Panel 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 Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard. The tenant stated that the Landlord had failed to ensure that (i) The house is wind and watertight and in all other

respects reasonably fit for human habitation; (ii) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; (iii) 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, and (iv) Any fixtures fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order. Specifically, the tenant stated that the living room, bedroom and bathroom were affected by dampness and water ingress, a repair to a wall had not been finished leaving bare brickwork, there were leaks in the bathroom, a broken shower switch, a leak behind the washing machine, the windows were defective and the cooker controls faulty.

3. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant on 19 August 2016.
4. The Private Rented Housing Committee inspected the property on the morning of 30 September 2016. Following the inspection of the property the Private Rented Housing Committee held a hearing at Wellington House, Wellington Street, Glasgow. The former Tenant, her representative and her mother all attended and gave evidence. The Landlord did not attend and was not represented. The tenant subsequently vacated the property and the tenancy came to an end.
5. The Committee proceeded to issue a RSEO in relation to the property. On 18 November 2016, the Landlord lodged a summary application at Paisley Sheriff Court under court reference PAI-B841-16. In terms of said application the Landlord sought to have the decision of the Committee quashed. The Tenant did not defend the proceedings.
6. On 1 December 2016, the Private Rented Housing Panel transferred to the First-tier Tribunal for Scotland.
7. By interlocutor dated 15 May 2017 the Sheriff, on the motion of the Landlord, there being no appearance by or on behalf of the former Tenant, granted the summary application.
8. The application, having been treated as withdrawn by virtue of the termination of tenancy in terms of Section 7(1)(A) of Schedule 2 of the Act, the Tribunal proceeded to consider whether to abandon their consideration of the application or to continue to determine the application. By Minute of Continuation dated the 30 July 2017 the Tribunal decided to proceed with the application. An inspection and hearing were assigned to take place on 1 December 2017.
9. On 1 December 2017 the Tribunal attended at the property. The Landlord was present. The current tenant and her father provided access to the property. Thereafter a hearing took place at Wellington House,

Wellington Street, Glasgow. The Landlord did not attend the hearing and accordingly no evidence was heard.

The inspection

10. At the time of the inspection the weather was cold, bright with light cloud. The property is a third-floor tenement flat in the centre of Paisley comprising hall, living room, kitchen, 2 bedrooms and bathroom. The Tribunal inspected the living room. There was no evidence of water penetration or damp on the ceiling or walls and the room appears to have been painted relatively recently. In the bedroom the Tribunal noted that a small area of the wall has marks on the wall, indicative perhaps of previous dampness or water penetration issues. As at the first inspection, there was no exposed brickwork. The former tenant had advised the Tribunal at the previous inspection that this had been repaired before the first inspection. The Tribunal then inspected the bathroom. This also appears to have been recently painted and there was no evidence of water penetration or dampness. Both sets of taps appear to be in working order. The Tribunal proceeded to inspect the kitchen. At the first inspection the former tenant had confirmed that the problem with the cupboard under the sink had been repaired before the inspection, and the pipes boxed in. There was no evidence of any leak during either inspection. The Tribunal noted during the inspection that the washing machine is being used by the current tenant, and appears to be in working order. The Tribunal also noted that the cooker has been replaced since the first inspection and the current cooker has temperature markings next to the controls. The Tribunal inspected the windows in the living room, kitchen and bedroom and found these to be in working order and capable of being opened and closed. Following the inspection, the Landlord advised the Tribunal that an extensive roof repair has been carried out to the tenement which addressed water penetration issues at the property. A schedule of photographs taken at the inspection is attached to this decision.

Findings in fact

11. The property is a third-floor tenement flat in the centre of Paisley, comprising living room, two bedrooms, kitchen and bathroom. The Landlord is the owner of the property. The applicant vacated the property in October 2016 and the property is currently occupied by new tenants.
12. The living room, bedroom and bathroom are not affected by water penetration or dampness.
13. The windows at the property are capable of being opened and closed and are in working order.

14. The bathroom taps are in working order.

15. The cooker in the kitchen has temperature markings round the controls

Reason for decision

16. The Tribunal considered the issues of disrepair set out in the application and noted at the inspection. The tribunal did not hear evidence from either party, the tenant having vacated the property following the first inspection and hearing in October 2016. The landlord did not attend the hearing but advised the Tribunal, following the inspection, that a major roof repair had been carried out to the tenement since the last inspection.

17. The Tribunal noted the absence of any evidence of water penetration or dampness in the living room, bedroom and bathroom. The Tribunal concluded that these issues, noted at the first inspection, have been successfully addressed by the roof repair and furthermore that the rooms had been decorated since the repair was carried out. The windows at the property are in working order, and capable of being opened and closed. The bathroom taps are in working order. The washing machine is being used by the current tenant and appears to be in working order. The cooker at the property has been replaced by a cooker which has temperature markings at the controls. The complaints of exposed brickwork in the bedroom and a leak under the sink had been repaired prior to the previous inspection.

18. The Tribunal accordingly took the view that the Landlord has complied with the duty imposed by Section 14(1)(b) of the Act.

Decision

19. The Tribunal accordingly determined that the Landlord had complied with the duty imposed by Section 14(1)(b) of the Act.

20. The decision of the Tribunal was unanimous

Right of Appeal

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.

In terms of Section 63 of the Act, 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... **J Bonnar**Date 28 December 2017
Josephine Bonnar, Legal Member

Motherwell 28 December 2017

This is the schedule of photographs referred to in the Decision of 28 December 2017

J Bonnar

Housing and Property Chamber
First-tier Tribunal for Scotland



81 Causeyside St, Flat 3/2, Paisley, PA1 1YU

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Schedule of Photographs - Inspection Date 1/12/2017

Weather – Cold, bright, light cloud



1. The property



2. Property gable



9. Washing Machine



10. Cooker



7. Kitchen Window



8. Living Room Window



5. Bathroom Ceiling



6. Shower Switch



3. Living Room Ceiling



4. Bedroom Ceiling