

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/16/0287

**17A Strathblane Road, Milngavie, Glasgow, G62 8DL
("The Property")**

The Parties:-

**Rangers Football Club, residing at the property
("the Tenant")**

**Mr. Jerry Mobbs and Mrs. Julie Mobbs, c/o The Property Bureau, Melville
House, 70 Drymen Road, Glasgow, G61 2RH
("the Landlords")**

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 Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led on behalf of both the Tenant and the Landlords at the hearing, determined that the Landlords had complied with the duty imposed by Section 14 (1)(b) of the Act.

The tribunal consisted of:-

Patricia Anne Pryce	-	Chairing Member
Carol Jones	-	Ordinary Member

Background

1. By application comprising documents received between 7 and 15 September, both 2016 the Tenant applied to the Private Rented Housing Panel ("PRHP") (which body was succeeded by the First-tier Tribunal (Housing and Property Chamber) on 1 December 2016) for a determination of whether the Landlords 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 Landlords had failed to comply with their duty to ensure that the house

meets the repairing standard and that the said failure was established as follows: -

- (a) There was damp and mould growing on one of the bedroom walls as a result of water ingress to the wall of the communal close and to the exterior of the building.
- (b) There was water ingress on the kitchen ceiling which had caused extensive staining on the ceiling.

The Tenant considered that the Landlords are in breach of their duty under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlords have failed to ensure:-

- (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.
3. By Minute dated 16 September 2016 the Convener of the PRHP, with delegated powers under Section 96 of the Housing (Scotland) Act 2014 and Section 21(8A) of the Act, intimated a decision to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee ("PRHC").
 4. The PRHP served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlords and the Tenant.
 5. Following service of the Notice of Referral (by letter dated 20 September 2016), the Landlords submitted written representations to the PRHC which included several attachments and confirmed that the Landlords wished to attend or be represented at the hearing. The Landlords confirmed that they may not be able to attend personally as they reside in Mozambique.
 6. The PRHC inspected the property on 10 November 2016. The PRHC noted that works had been carried out to the property prior to the inspection and that there was no longer a live issue of water ingress to the property as repointing works had been carried out to the wall located below the window of the rear bedroom and to the wall where the lean-to shed abuts the rear elevation of the property. A hearing took place on the same date within Wellington House, Wellington Street, Glasgow. The PRHC issued an oral Direction at the hearing ordering the Landlords to make good the damage to the decoration in the kitchen caused by the water ingress as parties agreed at the hearing that this was the only matter outstanding in terms of the present Application. The PRHC thereafter adjourned the hearing to allow the Landlords to carry out these final works and to produce written confirmation to the PRHC that the said outstanding

works had been completed. The Landlords subsequently produced to the tribunal on 8 December 2016 an invoice from D&R Decorators.

7. The tribunal inspected the Property on the morning of 13 February 2017. The Landlords were represented by Mr. Ross McAnespie, Chartered Building Surveyor and brother-in-law of Mrs. Mobbs, and was present during the inspection. The Tenant of the property was represented by Mrs. Katy Lamont, Football Administrative Executive employed by the Tenant and she provided the tribunal access to the property.
8. Following the inspection of the Property the tribunal held a hearing at Wellington House, Wellington Street, Glasgow. Mr. McAnespie attended on behalf of the Landlords and Mrs. Lamont attended on behalf of the Tenant.

The Hearing

Preliminary Issue

9. The tribunal noted the response that the Landlords had made to the tribunal in relation to the Direction. In all the circumstances, the tribunal accepted that the Landlords had complied with the Direction that had been issued at the previous hearing.

10. The Landlords, by way of Mr. McAnespie, submitted as follows: -

- He confirmed that the repairs to the external walls had been carried out prior to the first inspection on 10 November 2016 which had resolved the water ingress issues.
- He confirmed that these repairs had involved repointing to the wall located beneath the window of the rear bedroom together with further repointing works to the wall where the lean-to shed abuts the rear elevation of the property.
- He advised that the redecoration had been carried out to the kitchen in terms of the invoice which the Landlords had produced to the tribunal.
- He further advised that redecoration works had also been carried out to the rear bedroom, including washing the walls with anti-fungal treatment, as a gesture of goodwill by the Landlords.

The Tenant, by way of Mrs. Lamont, submitted as follows:-

- She confirmed that the Tenant was satisfied that all the works required in terms of the present Application had been completed.
- She was happy with the redecoration which had been carried out in the rear bedroom.

Summary of the issues

11. The issue to be determined is whether the repairing standard has been met in light of what the tribunal observed at the inspection together with the submissions on behalf of the Landlords and the Tenant.

Findings of fact

12. The tribunal finds the following facts to be established: -
- The tenancy agreement has existed since 1 November 2007.
 - The property comprised a ground floor traditional stone built three-apartment flat located in a two storey tenement in Milngavie.
 - The property comprises a hallway, kitchen, bathroom, living room and two bedrooms.
 - Repointing works had been carried out to the rear elevation of the property below the window of the rear bedroom and where the lean-to shed abuts this wall.
 - There is no live water ingress at the property.
 - The redecoration works to the kitchen required by the Application had been completed.
 - The Landlords had redecorated the rear bedroom.

Reasons for the decision

13. At the inspection, the tribunal noted that the works mentioned in the application had been completed, namely, that the water ingress had been eradicated by the repointing works which had been carried out to the rear elevation of the property and the kitchen had been fully redecorated. The Landlords had also fully redecorated the rear bedroom, albeit this was not required in terms of the Application.

The ordinary member of the tribunal took several photographs which form the Schedule attached to this decision.

The tribunal accepts that the Landlords have succeeded in resolving the repairs issues.

Given all of the circumstances, the tribunal is satisfied the house is wind and watertight and in all other respects fit for human habitation as the water ingress has been eradicated. The tribunal is satisfied that 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 as repointing repairs were carried out to the rear elevation of the property.

Decision

14. The tribunal accordingly determined that the Landlord had complied with the duty imposed by Section 14 (1)(b) of the Act.
15. The decision of the tribunal was unanimous.

Right of Appeal

16. **A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

Effect of section 63

17. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

P Pryce

Date

14 February 2017

Chairperson

Schedule of photographs taken during the inspections of 17A, Strathblane Road, Milngavie G62 8DL by the Private Rented Housing Committee on 10 November 2016 and the First-tier Tribunal for Scotland (Housing and Property Chamber) on 13 February 2017.

Reference Number : PRHP/RP/0287



External view - Front elevation of property



Kitchen - ceiling and wall (to hip end) 10/11/16



Kitchen - ceiling and wall (to hip end) 13/2/17



Kitchen - ceiling above window 10/11/16



Kitchen - ceiling above window 13/2/17



Kitchen - ceiling and walls (to corner of rear elevation/party wall to bathroom) 10/11/16



Kitchen - ceiling and walls (to corner of rear elevation/party wall to bathroom)13/2/17



Back Bedroom - wall (to close) 10/11/16



Back Bedroom - wall (to close) 13/2/17



Back Bedroom - wall (to rear elevation) 10/11/16



Back Bedroom - wall (to rear elevation) 13/2/17