

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision: Housing (Scotland) Act 2006 Section 24 (1)

Chamber Ref: FTS/HPC/RP/18/0595

The Property: 4 Kings Park, Torrance, Glasgow G64 4DX ("The house")

The Parties:-

Ms Victoria Clarke, 4 Kings Park, Torrance, Glasgow G64 4DX ("the Tenant")

Mr John Wilson, 23 Colston Avenue, Glasgow G64 1SL ("the Landlord")

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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, determined that the landlord has complied with the duty imposed by Section 14(1)(b) of the Act.

The tribunal consisted of –
Mark Thorley, Legal Member,
David Godfrey, Ordinary Member

Background

1. By application received on 15 March 2018, the tenant, through her representative, Mr Raymond Heath of the Citizens Advice Bureau, 11 Alexandra Street, Kirkintilloch G66 1HB, applied to the First-tier Tribunal for Scotland (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 stated that the tenant considered that the landlord had failed to comply with the duty to ensure the property meets the repairing standard and in particular the landlord had failed to ensure that –
 - a. That the property was free of dampness and mould with spores on walls and infestation on the wall in the bedroom.
 - b. That the conservatory back door did not lock.
 - c. That the window in the conservatory did not lock.
 - d. That the floor in the living room was warped and sagging and unsafe to walk on.
 - e. That the smoke alarms were not hard wired.
 - f. That the boiler was leaking.
 - g. That the shower door was broken.
 - h. That plug sockets in the bedroom and kitchen were not secure.
 - i. That the tap in the bathroom was broken.
 - j. That the kitchen drawers were broken.

3. The application stated that the tenant considered that the landlord failed to comply with the duty to ensure that the property meets the repairing standard and in particular the landlord had failed to ensure that –
 - a. The house is wind and watertight and in all other respects reasonably fit for human habitation (as required by Section 13(1)(a) of the Act);
 - b. 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 required by Section 13(1)(b) of the Act);
 - c. 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 (as required by Section 13(1)(c) of the Act);
 - d. Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order (as required by Section 13(1)(d) of the Act);
 - e. The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (as required by Section 13(1)(f) of the Act).
4. The tenant attached details of the following complaints to the application.
5. By Minute dated 5 April 2018 a Convenor of the First tier Tribunal for Scotland (Housing and Property Chamber) with delegated powers and having considered the application referred the application under Section 23(1) of the Act to a tribunal for determination.
6. The tribunal served a notice of referral under and in terms of schedule 2, paragraph 1 of the Act upon the landlord, the tenant and the landlord's then agents on 14 May 2018. An inspection of the house and a hearing were assigned for 18 June 2018. Following service of the notice of referral intimation was received from the tenant's representative indicating that the tenant had vacated the property.
7. By letter dated 11 May 2018 received by the tribunal on 14 May 2018 the landlord confirmed that he had instructed a new agent to represent his interests, Mr Dominic Notarangelo of Padrino Design, PO Box 2868, Bishopbriggs, Glasgow G64 9AL.
8. Written representations were made on behalf of the landlord by Mr Notarangelo dated 17 May 2018 and received by the tribunal on 18 May 2018.
9. The tribunal determined to proceed with the application, in the absence of an applicant, on the basis that the matters raised were of significance and that it was in the public interest to proceed with the application.
10. The tribunal inspected the property on the morning of 18 June 2018. The weather conditions were dry and overcast.
11. The property is a detached bungalow built in the 1970s. The tenant has vacated the premises. The tribunal had determined to proceed with the inspection due to the nature and extent of the alleged defects. The landlord's representative Mr Dominic Notarangelo was in attendance. Photographs were taken and are attached as a schedule to this decision.
12. Following the inspection of the property the tribunal held a hearing at the Glasgow Tribunals Centre, Room 110, 20 York Street, Glasgow G2 8GT. Mr Notarangelo attended and represented the landlord.
13. The tribunal considered the issues in the following order –

a. Dampness in the property.

Meter reading had been taken in the property. In particular meter readings were taken in the bedroom. There was no sign of dampness.

It was submitted on behalf of the landlord that there may have been condensation in the property because of the amount of people who had formerly been living in the property and the drying of clothes within the house itself.

There was no objective sign of dampness within the property at the time of the inspection.

b. The conservatory back door does not lock.

The back door had on inspection a functioning lock. There were securing bolts to the top and bottom of the door which it was acknowledged were not perfect for the door but did secure the door.

c. The window in the conservatory does not lock.

New catches had clearly been placed on the window in the conservatory and it did lock.

d. The floor in the living room was warped and sagging and unsafe to walk on.

It was submitted by the landlord's agent that the tenant had taken up the carpet and put laminate flooring down. It was noted that the floor was neither warped, sagging nor dangerous. It was certainly not unsafe to walk on. The landlord's agent confirmed that the laminate on the floor would be replaced with carpet in due course.

e. Smoke alarms not hard wired.

The smoke alarms were inspected within the house and were acknowledged to be hard wired.

f. The boiler was leaking.

A landlords Gas Safety Certificate was provided which confirmed the boiler was in working order.

g. Shower had a broken door.

It was difficult to determine what was meant by the shower door being broken. There was no shower curtain around the shower and the panel of the bath was removed but in the absence of further clarification it was impossible to determine that the shower door was broken.

h. Plug sockets in bedroom and kitchen not secure.

The sockets in the bedrooms and kitchen were checked and found to be secure.

i. Tap in bathroom broken.

The tap in the bathroom both at the bath and at the sink were checked and noted to be new and in working order.

- j. Kitchen drawer broken.

The kitchen drawers were again checked at the point of inspection and found to be working.

Summary of the issues

The issue to be determined is whether the house meets the repairing standard as laid down in Section 13 of the Act and whether the landlord has complied with the duty imposed by Section 14(1)(b) of the Act.

Findings in Fact

1. The tribunal finds the following facts to be established –
 - (a) The tenant entered a short assured tenancy agreement with the landlord with a commencement date of 30 April 2016.
 - (b) The tenant no longer occupies the property.
 - (c) The landlord owns the property at 4 Kings Park, Torrance, Glasgow.
 - (d) The tenant's representatives intimated to the landlord's then agents by letter of 26 January 2018 issues with the property.
 - (e) The tribunal carried out its inspection on 18 June 2018 and carefully checked the items which were the subject of the complaint and observed the following –
 - (i) That no dampness appeared to be present within the property. Meter readings were taken at various locations within the property.
 - (ii) That the conservatory back door did lock.
 - (iii) That the window in the conservatory did lock.
 - (iv) That the floor in the living room was neither warped nor sagging and was safe to walk on.
 - (v) That the smoke alarms were hard wired.
 - (vi) That the boiler appeared to be working in accordance with the Gas Safety Certificate and no signs of leaking were evident
 - (vii) That the tribunal were unable to identify what was referred to as being the shower door.
 - (viii) That the plug sockets in the bedroom and kitchen were secured.
 - (ix) That the taps in the bathroom were working.
 - (x) That the kitchen drawers were not broken.

Reasons for decision

1. The tribunal noted that work had been undertaken to the property by the landlord. The tribunal had determined to proceed with the application on the basis of the apparent significance of the issues as raised the issue of public interest in doing so.
2. The tribunal noted the submissions made on behalf of the landlord.
3. The tribunal considered each of the complaints made.
4. The tribunal accordingly determined that there was no failure to comply with the repairing standard in terms of Section 14(1)(b) of the Act.

Decision

The tribunal accordingly determined that the landlord has complied with the duty imposed by Section 14(1)(b) of the Act.

The decision of the tribunal was unanimous.

1. **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.

M Thorley

— chairperson

6th July 2018 date

Housing and Property Chamber

First-tier Tribunal for Scotland



PHOTOSHEET



Property: 4 KINGS PARK, TORRANCE, GLASGOW, G64 4DX

Ref no: FTS/HPC/RP/18/0595

Tribunal: Mark Thorley and David Godfrey

Inspection: The property was inspected at 10.00 am Monday 18th June 2018.

Access: The Tenant, Ms Victoria Clarke no longer occupies the property and it is presently vacant.

The Landlord, Mr John Wilson was not present but was represented by his Agent Mr Dominic Notarangelo who provided access to the property.

Photographs

1. Conservatory Door Lock
2. Conservatory Window Lock
3. Lounge Flooring
4. Hall Smoke Alarms
5. Living Room Smoke Alarm

- 6. Kitchen Heat Detector
- 7. Central Heating Boiler
- 8. Typical Kitchen Socket
- 9. Bathroom Taps (1)
- 10. Bathroom Taps (2)
- 11. Kitchen Drawers



Conservatory Door Lock



Conservatory Window Lock



Lounge Flooring



Hall Smoke Alarms



Living Room Smoke Alarm



Kitchen Heat Detector



Central Heating Boiler



Typical Kitchen Socket



Bathroom Taps (1)



Bathroom Taps (2)



Kitchen Drawers

David Godfrey, MRICS

18th June 2018

This inspection is for gas safety purposes only to comply with the Gas Safety (Installation and Use) Regulations. Flues have been inspected visually and checked for satisfactory evacuation of products of combustion. A detailed internal inspection of the flue integrity, construction and lining has NOT been carried out.

REGISTERED BUSINESS DETAILS Reg No:

Gas Engineer: JOE MCCARTHY
Gas Safe registered engineer No: 528233
Company: JR McCARTHY
Address: 25 HERMA ST
GLASGOW
Postcode: G23 5AN Tel: 07778646610

INSPECTION/INSTALLATION ADDRESS

Name & Title:
Address: 4 KINGS PARK
TORRANCE
Postcode: G64 4DX Tel:
I certify that I carried out inspections on the appliances detailed below.
Signed: [Signature] Inspection Date: 24/4/18

LANDLORD (OR AGENT) NAME & ADDRESS (if applicable):

Name & Title: S WILSON
Address: SAME
Postcode: Tel:

APPLIANCE DETAILS

Location	Make and Model	Type	Flue Type OF/RS/FL	Operating pressure in room or flue input kW/h or Btu/h	Safety device(s) operation correct Yes/No/NA	Spillage test Pass/Fail/NA	Smoke pellet flue flow test Pass/Fail/NA	Initial combustion analyser reading	Final combustion analyser reading
1 KITCHEN	SABRE 29 HE	Bould	RS	29KW	YES	PASS	PASS	0.000	0.000
2 KITCHEN	NO NAME	HOB	FL	65KW	NA	NA	NA	—	—
3									
4									
5									

FLUE TESTS

Flue visual condition Pass/Fail/NA	Adequate ventilation Yes/No	Landlord's appliance Yes/No/NA	Inspected Yes/No	Appliance serviced Yes/No	Appliance Safe to Use Yes/No
YES PASS	YES	YES	YES	NO	YES
NA NA	YES	YES	YES	NO	YES

INSPECTION DETAILS

Satisfactory termination Yes/No/NA	Flue visual condition Pass/Fail/NA	Adequate ventilation Yes/No	Landlord's appliance Yes/No/NA	Inspected Yes/No	Appliance serviced Yes/No	Appliance Safe to Use Yes/No
YES	PASS	YES	YES	YES	NO	YES
NA	NA	YES	YES	YES	NO	YES

Gas Installation
Pipework:Satisfactory
Visual Inspection:Yes ☐ No ☐Emergency Control
Accessible:Yes ☒ No ☐Satisfactory Gas
Tightness Test:Yes ☒ No ☐Equipotential
Bonding Satisfactory:Yes ☒ No ☐

GIVE DETAILS OF ANY FAULTS

1	
2	
3	
4	
5	

RECTIFICATION WORK CARRIED OUT

WARNING NOTICE ISSUED Yes/No/NA	* WARNING TAG or STICKER FIXED Yes/No/NA

Audible CO
Alarms:Approved CO
Alarms Fitted:Yes ☒ No ☐ N/A ☐Are CO
Alarms in Date:Yes ☒ No ☐ N/A ☐Testing of CO
Alarms Satisfactory:Yes ☒ No ☐ N/A ☐Smoke
Alarms Fitted:Yes ☒ No ☐ N/A ☐Number of appliances tested: 2

This record is issued by:

Signed: [Signature]

Received on behalf of the Landlord/Home Owner:

Signed: [Signature]Print Name: JR McCARTHYDate: 24/4/18

NEXT GAS SAFETY CHECK MUST BE CARRIED OUT WITHIN 12 MONTHS

Date: 24/4/18Date: 24/4/18

Tenant/Agent/Landlord/Home Owner (delete as applicable)

Serial No

MAGSS 010582

LANDLORD/HOMEOWNER GAS SAFETY RECORD

This record can be used to document the outcomes of the checks and tests required by The Gas Safety (Installation and Use) Regulations. Some of the outcomes are as a result of visual inspection only and are recorded where appropriate. Unless specifically recorded as required inspection of the flue limit, combustion gas pressure, has been performed. Registered Gas Engineer details can be checked at: www.gasregister.co.uk or by calling 0800 408 5560

gas
safe
REGISTERED

Gas safe is a registered trade mark of HSE and is used under licence.

Details of Registered Business R.P.P.H
 Gas Safe Register No 510232
 Registered Engineer's Name Robert Park
 Gas Safe Register Licence Number
 Business 2 Dunkeld Gardens
 Address Bishop Briggs
 Postcode G64 2JU
 Contact No 07745080086

Details of Site
 Name (Mr/Mrs/Miss/MS) Terrance
 Address 4 Kings Park Torrance
 Postcode G64 4DX
 Contact No

Details of Customer/Landlord (or agent where appropriate)
 Name (Mr/Mrs/Miss/MS) Nixon Lettings
 Address 34 Kirkintilloch Road, Bishopton
 Postcode
 Contact No

Number of Appliances tested (2)

Outcome of gas installation pipework visual inspection?
 Outcome of gas supply pipework visual inspection?
 Is the Emergency Control Valve access satisfactory?
 Outcome of gas tightness test?
 Is the Protective Equipment bonding satisfactory?

select as appropriate and relevant

Pass / Fail / NA
 Pass / Fail / NA
 Pass / Fail / NA
 Pass / Fail / NA
 Pass / Fail / NA

Appliance Details

	Location of	Type	Manufacturer	Model	Owned by Landlord/Homeowner Yes/No	Inspected Yes/No	Type of flue
1	Kitchen	Boiler	Swan	29 HE	YES	YES	R-S
2	Kitchen	Hob	UNKNOWN	—			
3							
4							

Inspection Details

	Operating pressure in mbar and/or heat input kW/h or Btu/h	Operation of safety devices	Ventilation satisfactory	Visual condition of flue and termination	Flue operation checks	Combustion analyser reading (if applicable)	Appliance serviced	CO Alarm fitted	CO Alarm tested (if fitted)	SAFE TO USE
1	29kW	Pass	YES	Pass	NA	0.01	NO	YES	Pass	YES
2	7.5kW	NA	YES	NA	NA	—	NO	YES	Pass	YES
3										
4										

Defect(s) Identified

1 NEW FLE REG'D

2

3

4

Remedial Action Taken numbering should correspond to defects above.

1

2

3

4

Details of Work carried out

Boiler + Hob (HEM) / CO DETECTION FITTED

GIUSP classification eg. AR, ID

A.R.

Warning/Advisory Record insert form serial No*

* Refer to separate Warning/Advisory Record

ATTENTION

Next safety check due by:

7.04.18

Record issued by: Signature Robert Park
 Print Name Robert Park
 Received by: Signature T. Nixon
 Date appliance(s)/flue(s) checked 7.04.17