

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006, section 22(1)**

**Chamber Ref: FTS/HPC/RP/18/1874**

**Title no/Sasines Description: GLA114792**

**3/1, 385 Great Western Road, Glasgow G4 9HY  
("The House")**

**The Parties: -**

**Mr Alan Speirs and Mrs Lesley Speirs, 26 Campbell Drive, Bearsden, Glasgow, G61 4NE; Mr Alan Speirs c/o 71 Candleriggs, Glasgow, G1 1NP  
("The Landlord")**

**Countrywide Residential Lettings, c/o 71 Candleriggs, Glasgow, G1 1NP  
("the Landlord's Representative")**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), having made such enquiries as it saw fit for the purpose 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 House, and taking account of all of the available evidence, determined that the Landlord has not failed to comply with the duty imposed by Section 14(1) (b) of the Act. The Tribunal's decision is unanimous.**

**The Tribunal consisted of: -**

**Susan Christie (Legal Member and Chair)**

**Nick Allan (Ordinary Member)**

### **Background**

1. By application received on 27 July 2018 the Former Tenant applied to the Housing and Property Chamber under section 22(1) of the Housing (Scotland) Act 2006 for a determination of whether the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.
2. The application specifically stated that the Former Tenant considered that the Landlord had failed to comply with his duty to ensure that the Property meets the repairing standard and that the Landlord had failed to ensure that the House is wind and watertight and in all other respects reasonably fit for human habitation

3. The detail of the complaint being that the House was not wind and watertight, as per the contract, nor was the required repair (hole in window) completed within a reasonable time as stated by the contract.
4. The Tenant stated that the following work required to be carried out at the House: "part of the window frame fell out due to intensive mould, leaving a large hole. More of the frame is now beginning to come away too due to the same reason."
5. By Minute dated 31 July 2018, a Convenor of the Tribunal, with delegated powers under Section 23 A of the Act decided to refer the application to a Tribunal.
6. By Notices of Referral, Inspection and Hearing under and in terms of Schedule 2, Paragraph 1 of the Act, all dated 3 August 2018 the Parties were notified of the decision to refer the application to a Tribunal for determination.
7. Thereafter on or around 23 August 2018 the Landlord's Representative intimated to the Tribunal by e-mail that the Former Tenant had vacated the House on the finish date of the lease, that is 18 August 2018. Accordingly, the Former Tenant was treated as having withdrawn the application under Schedule 2, Paragraph 7 (1) of the Act.
8. The Tribunal then required to decide whether said application should be determined or whether it should be abandoned, all in terms of Schedule 2 Paragraph 7 (3) of the Act. Having regard to the nature of the alleged failure to comply with the duty imposed by Section 14 91) (b) of the Act and the indication that the House fails to meet the repairing standard set out in Section 13 (1) (a) of the Act and given that this raises potential health and safety issues for any Tenant, the Tribunal decided to continue to determine the application and issued a Minute of Continuation to a Determination on 29 August 2018.
9. An Inspection was assigned for 19 September 2018 at the House at 10am and a Hearing for 11.30 am in Glasgow Tribunals Centre, Room 109, 20 York Street, Glasgow G2 8GT.

### **The Inspection**

10. On the morning of 19 September 2018, the Tribunal attended at the House. The Tribunal inspected the House in the presence of the Landlord Alan Speirs and the Landlords Representative Andrew Sweeney. The weather conditions at the time of the Inspection were wet and windy. Photographs were taken during the Inspection and these are attached as a Schedule to this Decision.
11. The House is a two bedroomed, flatted dwelling house on the top floor of a tenemental block. The window complained of in the application is

situated in the second bedroom of the House as in the layout of the flat at the day of Inspection.

### **The Hearing**

12. Following upon the Inspection of the House, the Tribunal held a Hearing at 11.30 am in Glasgow Tribunals Centre, Room 109, 20 York Street, Glasgow G2 8GT.
13. The Landlord Alan Speirs and the Landlord's Representative Andrew Sweeney were both present.
14. The Tribunal established that the Former Tenants had a Short-Assured Tenancy over the House which ran from 18 August 2017 to 18 August 2018 inclusive of those dates, at a rent of £885 per calendar month. The Former Tenants had quit the house at the finish date. The complaint of disrepair referred to in this application was initially raised by the Former Tenants in writing to the Landlord's Representative around 11 November 2017. A repair to a window in the House was done around 22 August 2018, all as detailed in a receipted invoice from Handyman Services Glasgow dated 22 August 2018. It showed that a rotten sill had been removed and replaced, rotten timber was removed from the base of a window and replaced with new timber. Paint was applied to finish. All at a cost of £500.
15. The Landlord provided background information. There had been a delay in inspecting and effecting the repairs for various reasons. Firstly, it had been difficult to obtain access to the House at times convenient to the Former Tenants for the purposes of inspection and the obtaining of quotes. Secondly, the Former Tenants had changed the layout of the flat and been using the second bedroom as the lounge. The window complained of in the application was situated in the room where the second bedroom was originally, and this had caused a degree of confusion when the Landlord was considering the initial quotations for advisory works and how appropriate they were to the type of property. He was not trying to prevaricate. When the misunderstanding was resolved he had proceeded with the work done.

### **The Evidence**

16. The evidence before the Tribunal consisted of: written evidence in the form of the application form with the accompanying e mail exchanges between the Former Tenant and the Landlord's Representative; a copy of the Land Register title for the House; a copy of the AT5 form and copy lease between the Landlord and Tenant dated 18 August 2017; a receipted invoice from Handyman Services Glasgow dated 22 August 2018 for the House describing repairs to a sash window and for painting at £500, and all communication exchanges with the Tribunal along with the oral evidence of the Landlord.

17. The findings of the Inspection of the House that informed the Tribunal are as follows: the broken window referred to in the application form has been satisfactorily repaired and is currently fully functioning. The Tribunal also noted evidence of an earlier repair to the upper section of the window frame. Photographs 2,3 and 4 in the attached Schedule refer.

### **Summary of the issue**

18. The issue to be determined was whether the House meets the repairing standard as set out in section 13 (1) (a) of the Act, and whether the Landlord had complied with the duty imposed on him by section 14(1) (b) of the Act.

### **Findings in fact**

19. The Tribunal finds the following facts to be established:

- I. The Landlord is the registered owner of the House.
- II. The tenancy between the Landlord and the Former Tenant was a Short-Assured tenancy and is a tenancy to which the repairing standard applies.
- III. The Former Tenant took entry to the House on 18 August 2017 for a term of 12 months. The tenancy ended at its natural finish date of 18 August 2108.
- IV. The Former Tenant raised the complaint referred to in the application with the Landlord's Representative in writing around 11 November 2017, that is prior to the current application being made.
- V. The Tribunal carefully inspected the House on 19 September 2018 and found that the window frame complained of in the application had been satisfactorily repaired.
- VI. The Property does meet the repairing standard required under section 13 (1) (a) of the Act.

### **Reasons for Decision**

20. It was evident to the Tribunal that adequate repairs had been carried out to the window frame complained of in the application sometime around 22 August 2018 which made it wind and watertight and free from rot. The Landlord has therefore complied with the duty imposed by section 14 (1) (b) of the Act and has ensured that the House meets the repairing standard under sections 13(1) (a) of the Act. The decision of the Tribunal is unanimous.

## Observations

The Tribunal made the following additional observations during the Inspection of the House:

- The windows of the House have a finite life and regular inspection and maintenance is needed on an ongoing basis to ensure the repairing standard is met.
- The light fitting in the bathroom of the House is not the appropriate type for a bathroom and the Landlord may wish to consider taking appropriate remedial action.

**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.

In witness whereof, these presents type written on this and the preceding pages are executed by Susan Christie, Legal Member and Chair of the Tribunal at Glasgow on 27 September 2018 before this witness: -

G Christie

witness

S Christie

Legal Member and Chair

George Harvey Christie name in full

5 Albert Drive, Glasgow G733RT Address

Glasgow, 27 September 2018  
This is the Schedule of Photographs referred to in the Decision  
of even date heretofore Chamber Reference FTS/HPC/RP/18/1874  
S Christie  
Legal Member.

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



**Photograph Schedule**

**3/1, 385 Great Western Road, Glasgow, G4 9HY**

<b>Case Reference:</b>	FTS/HPC/RP/18/1874
<b>Date of inspection:</b>	19/09/2018
<b>Time of inspection:</b>	10.00 am
<b>Weather conditions:</b>	Wet and windy
<b>Present:</b>	Mrs Susan Christie – Legal Member Mr Nick Allan – Ordinary Member Mr Alan Spiers – Landlord Mr Andrew Sweeny – Landlords Representative



**Photo 1 – Front elevation**



**Photo 2** – Repaired window in bedroom



**Photo 3** – Repaired window



**Photo 4** – Previous repair to upper window



**Photo 5** – Smoke detector in hall



**Photo 6** – Smoke detector in lounge



**Photo 7** – Lounge window state of repair

Nick Allan – Ordinary Member

First-tier Tribunal

Housing and Property Chamber – 25<sup>th</sup> September 2018