

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Section 27

Chamber Ref: FTS/HPC/RT/22/1921

I20 Green Road, Paisley, PA2 9AJ registered in the Land Register of Scotland under Title Number REN12048 (“the Property”)

The Parties:-

Renfrewshire Council, Cotton House, Paisley, PA1 1BR (“the Third Party Applicant”)

Mr Paul Duffy, I20 Green Road, Paisley, PA2 9AJ (“the Tenant”)

Mr Ian Tennie, 63 Victoria Road, Paisley, PA2 9PT (“the Landlord”)

Tribunal Members:

Mr Martin McAllister, Solicitor (Legal Member) and Mr Donald Wooley, Chartered Surveyor (Ordinary Member)

Decision

The tribunal made a repairing standard enforcement order in terms of Section 24(2) of The Housing (Scotland) Act 2006.

Background

1. By application dated 15th June 2022, the Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (the 2006 Act). The application is in terms of Section 22 (1) of the 2006 Act (“the 2006 Act.”)
2. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working

order, that any fixtures, fittings and appliances provide by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order, that the Property does not have satisfactory provision for detecting fires and for giving warning in the event of suspected fire and that the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. Specifically, the application states that the Landlord has failed to provide an electrical installation inspection report (EICR) or Gas Safety Certificate, that the central heating boiler is not working, there is no carbon monoxide detector, that the heat alarm in the kitchen was not functioning, that there was no smoke detector installed in the living room of the Property and the wash hand basin in the bathroom was loose.

3. On 6th July 2022, a Notice of Acceptance was issued by a legal member of the Tribunal acting under delegated powers of the Chamber President.

Property Inspection

4. The members of the tribunal inspected the Property on 14th September 2022 and a copy of an Inspection Summary and Schedule of Photographs prepared by the Ordinary Member is attached to this Decision. It is referred to for its terms.

The Hearing

5. A Hearing was held by audioconference on 14th September 2022. The Applicant was not present and the Landlord was neither in attendance nor represented. The Tenant was not present.

6. Findings in Fact

- 6.1 The Tenant and Landlord are parties to a tenancy for the Property.
- 6.2 The Landlord has not provided the Tenant with an electrical installation condition report.
- 6.3 The Landlord has not provided the Tenant with a Gas Safety Certificate.
- 6.4 The gas appliances/installation within the Property are unsafe.
- 6.5 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of suspected fire.
- 6.6 The Property does have a carbon monoxide detector which functioned when tested although it continued to sound intermittently for a period after testing.
- 6.7 The wash hand basin was in a satisfactory condition at the time of inspection.

Reasons

7. The tribunal had a copy of relevant pages of a private residential tenancy agreement signed by the Landlord and the Tenant and which is dated 4th October 2019.
8. The tribunal relied on what it had observed at the inspection with regard to the condition of the Property and which is detailed in the Inspection Summary and Schedule of Photographs.
9. At the inspection, the Tenant indicated that he did not have a copy of an EICR or Gas Safety Certificate.
10. The tribunal had regard to a Safety Warning Notice prepared by Scottish Gas Networks dated 8th May 2022 and which had been submitted with the application. It categorised the boiler and hob as being "immediately dangerous." The report also stated that the carbon monoxide detector was activated when the shower was in operation.
11. It is a requirement of landlords to comply with the regulations in relation to gas and electrical systems because of the clear health and safety implications. In the case of the Property, the members of the tribunal were concerned at the apparent absence of an EICR or Gas Safety Certificate and this was compounded by the terms of the Scottish Gas Network Safety Warning Notice dated 8th May 2022.
12. At the time of inspection, the attachment of the wash hand basin in the bathroom to the wall was adequate.

Disposal

13. The tribunal determined that a repairing standard enforcement order (RSEO) be made in the following terms;

The Landlord is required to:

- 13.1 Produce a current Electrical Installation Condition Report (EICR) for the Property and PAT testing certificates in respect of those electrical appliances provided by the landlord. The Reports require to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category.**

13.2 Install smoke detectors within the living room and hall and a heat detector in the kitchen, ensuring that they are all interconnected, fully functional and meet the requirements contained within the Housing (Scotland) Acts 1987 and 2006, as subsequently amended by the Modification of the Repairing Standard Regulations 2019.

13.3 Produce a report from a suitably qualified Gas Safe Registered engineer, supported by a valid and satisfactory gas safety certificate, confirming that the boiler, providing hot water and heating to all relevant fittings in the property, is in proper working order. The report should also confirm if the existing carbon monoxide detector is fully functional and complies with all relevant statutory guidelines. In the event that the current detector is established to be defective it should be replaced with a new and fully compliant CO detector, appropriately located within the kitchen. Any other recommendations contained within the report should be addressed and repaired by an appropriate contractor.

The Landlord is required to comply with the RSEO before 31st October 2022.

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.

Martin J. McAllister,
Legal Member
16th September 2022