

Housing and Property Chamber

First-tier Tribunal for Scotland



Repairing Standard Enforcement Order (RSEO) made under Section 24 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/17/0220

Re: Property at 183 Upper Craigour, Edinburgh EH17 7SQ ("the Property/ the house")

Title No: MID66781

The Parties:-

Ms Fiona Dewar, residing at 183 Upper Craigour, Edinburgh EH17 7SQ ("the Tenant")

Andrew Scott Ritchie, sometime c/o PO Box 25035, Villa 9, Musharif Compound, Kamarah Street, Abu Dhabi, United Arab Emirates and thereafter at Villa 96, 5th Street, A 1 Reem, Arabian Ranches, Dubai, DMC 15825, United Arab Emirates ("the Landlord")

Tribunal Members: Mr George Clark (Legal Member/Chair) and Mr Andrew Murray (Ordinary)(Surveyor) Member

Whereas in terms of their decision dated 24 August 2017, The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act"), the Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Tribunal requires the Landlord:

(1) to exhibit to the Tribunal a current Gas Safety Certificate in respect of the Property, issued by a Gas Safe registered engineer;

(2) to exhibit to the Tribunal a current Electrical Installation Condition Report, issued by an electrical contractor who is registered either with NICEIC or with SELECT;

(3) to instruct a suitably qualified plumbing contractor to carry out such repairs to the toilet waste system as are necessary to restore it to proper working order;

(4) to instruct a suitably qualified electrical contractor to carry out such works as are necessary to restore the lighting in the living room to safe and proper working order.

(5) to properly reinstate the plaster of the ceiling of the living room and thereafter to redecorate the ceiling and the wall adjacent to the staircase;

(6) to install a suitable vent in the door of the cupboard housing the central heating boiler and install a carbon monoxide detector at an appropriate height outside the cupboard;

(7) to instruct a suitably qualified electrical contractor to install in the Property mains-wired and interlinked smoke detectors in the living room, downstairs hallway and upper floor landing of the Property and a heat detector in the kitchen of the Property, all in accordance with the Revised Domestic Technical Handbook guidance and the Scottish Government revised statutory guidance on the requirements for smoke alarms; and

(8) to install a carbon monoxide detector in the kitchen.

The Tribunal order that the reports specified in this Order must be obtained within the period of 6 weeks from the date of service of this Order.

Right of Appeal

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or

occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

IN WITNESS WHEREOF these presents, typewritten on this and the two preceding pages, are executed by George Barrie Clark, solicitor and Chairperson of the Tribunal, at Lasswade, on 24 August 2017, before this witness, Caroline Gallacher, 25 (Flat 1), Gullan's Close, Edinburgh.

G Clark

Legal Member/Chair person

Caroline Gallacher

Witness

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier tribunal for Scotland under Section 24 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/17/0220

**Re: Property at 183 Upper Craigour, Edinburgh EH17 7SQ ("the
Property/ the house")**

The Parties:-

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Compound, Kamarah Street, Abu Dhabi, United Arab Emirates and
thereafter at Villa 96, 5th Street, A 1 Reem, Arabian Ranches, Dubai, DMC
15825, United Arab Emirates ("the Landlord")**

**Tribunal Members: Mr George Clark (Legal Member/Chair) and Mr
Andrew Murray (Ordinary)(Surveyor) Member**

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 has complied with the
duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006
("the Act"), determined that the Landlord had failed to comply with the
duty imposed by Section 14 (1)(b) of the Act and that a Repairing
Standard Enforcement Order should be made.**

Background

- 1. By application received on 9 June 2017, the Tenant applied to the Housing
and Property Chamber of the First-tier Tribunal for Scotland ("the
Tribunal") 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 and in particular that the Landlord had failed to ensure that:-

(a) 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,

(b) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order,

(c) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed,

(d) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire and

(e) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

3. The Tenant stated in the application that there was no Gas Safety Certificate and no Electrical Installation Condition Report. Neither the gas nor the electrical system had been checked when the Tenant moved into the Property. The smoke alarms were not working and there was no carbon monoxide alarm. The ceiling lights were hanging down unsafely. The living room carpet had been removed following a leak from the toilet above, but had not been replaced and the gripper was dangerous. The wallpaper in the living room had not been replaced following the leak.
4. By letter dated 19 July 2017, the President of the Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a Tribunal for determination.
5. The Chamber served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
6. Following service of the Notice of Referral, the Landlord made no written representations to the Tribunal.
7. The Tribunal inspected the Property on the morning of 24 August 2017. The Tenant was present at the inspection and was also represented at the inspection and the subsequent hearing by Ms Anna Mencil, Housing Adviser, of Edinburgh Housing Advice Partnership.
8. A file of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision

The Hearing

9. Following the inspection, the Tribunal held a hearing at George House, 126 George Street, Edinburgh EH2 4HH and heard from the Tenant and Ms Mencil. The Landlord was not present or represented at the hearing.
10. The Tenant told the Tribunal that she lived in the Property with her partner and two children, aged 4 years and 19 months. She had two older children who occasionally stayed in the Property.
11. The Tenant said that there had been a leak through the living room ceiling, from the toilet in the bathroom, in February 2017, with waste water dripping through the light fittings on to the carpet beneath. This had been reported to the Landlord by e-mail on 21 February, but he had not immediately responded and a week later, part of the ceiling had come down. The Tenant had again contacted the Landlord, who said that her original e-mail had apparently gone to his Junk e-mail, so he had not seen it. Somebody then arrived to remove the carpet, which was soiled and soaked. The Tenant had subsequently found out that this had been the Landlord, but he had not identified himself, telling the Tenant's partner, who had admitted him to the Property, that he had been sent by the Landlord's wife. The Landlord had e-mailed the Tenant to say he had seen the issue at first hand, so the Tenant was convinced that it had been the Landlord who had been at the Property without saying who he was. A handyman instructed by the Landlord had then put in spotlights to replace the original light fittings and it appeared to the Tenant that the Landlord was more interested in fitting spotlights than in replacing the soiled carpet. The Tenant's child had fallen on the concrete floor and the gripper had sharp edges which were very dangerous to young children. The replastering of the ceiling had not been completed and the necessary redecoration had not been done. The Tenant was unable to pay for the necessary plumbing work herself and could not deduct the cost from rent, as the rent was paid directly to the Landlord by City of Edinburgh Council, by way of her Housing Benefit.

Findings of fact

12. The Tribunal finds the following facts to be established:-
 - The Property is a semi-detached dwellinghouse, built approximately 30 years ago, and is occupied by the Tenant, her partner and 2 young children. Two older children of the Tenant also live there on an occasional basis.
 - There is evidence of a leak of foul waste through the living room ceiling from the toilet above. This waste was observed to be running down a spotlight fitting into a basin which the Tenant had placed on the sitting room floor. There was a strong smell of urine in the room.
 - There is evidence of previous reinstatement of the section of the living room ceiling where the present leak is evident. A sheet of plasterboard has been installed in the centre section of the ceiling

and spotlights have been installed. The plastering of the ceiling has not been completed with a plaster skim or tape and the ceiling and affected wall have not been redecorated.

- The spotlights are hanging loose from the living room ceiling.
- There is no carpet in the living room of the Property and the grippers which would have retained the original carpet are exposed and project above the concrete floor surface.
- The central heating boiler is located in a cupboard in one of the bedrooms. The door to the cupboard does not have a vent.
- There is a gas hob in the kitchen.
- There are no smoke detectors in the Property.
- There is no heat detector in the kitchen of the Property.
- There are no carbon monoxide detectors in the Property.
- The Tribunal has not seen a Gas Safety Certificate in respect of the Property.
- The Tribunal has not seen an Electrical Installation Condition Report in respect of the Property.

Summary of the issues

13. The issues to be determined were whether the Landlord had complied with the duty set out in Section 14(1)(b) of the Act and whether a Repairing Standard Enforcement Order should be made in respect of the Property.

Reasons for the decision

14. The Tribunal was satisfied from its inspection of the Property that the Tenant and her family are living in unacceptably unsanitary conditions in that foul waste from the bathroom is leaking into the living room below. The Tribunal is, therefore, of the view that the repair of the original leak in February/March 2017 has not been properly carried out and that this work will have to be done before the living room ceiling reinstatement is completed. Accordingly, the Tribunal decided to make a Repairing Standard Enforcement Order ("the Order") which required the necessary plumbing work to be carried out as well as the completion of the replastering of the living room ceiling and redecoration of the ceiling and the wall adjacent to the staircase. The Tribunal was of the view that the toilet is at present unusable, as are the spotlights in the living room, as they are affected by the leak of foul water from the toilet above. There is no other toilet in the Property.
15. The Tribunal determined that the concrete living room floor was dangerous to children and that the grippers represented a tripping hazard as well as having the potential to cause serious injury to anyone accidentally coming into contact with them and decided therefore that the Order should include a requirement to recarpet the living room or to remove the gripper and provide alternative floorcovering.

16. The Tribunal was concerned that there were no mains-wired interlinked smoke detectors in the hallway and living room of the Property and no heat detector in the kitchen.
17. The Tribunal was also concerned that there is no vent in the door of the bedroom cupboard which houses the central heating boiler and that there is no carbon monoxide detector outside that cupboard.
18. The Tribunal was also concerned that there was no carbon monoxide detector in the kitchen, despite there being a gas hob there.
19. The Tribunal accepted the evidence given by the Tenant that she had not seen an Electrical Installation Condition Report or a Gas Safety Certificate in respect of the Property and determined that the Order should require the Landlord to exhibit both of these documents.
20. The decision of the Tribunal was unanimous.

Right of Appeal

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Signed..... **G Clark** Date 24 August 2017
Legal Member/Chair

This is the ~~file~~ photograph
referred to in the foregoing
Statement of Death

G Clark

From NEWBOLCHATE
24 AUGUST 2017

Photograph Schedule – 183 Upper Craigour Edinburgh EH17 7SQ

Case reference: FTS/HPC/RP/17/0220

Date of Inspection: 24 August 2017



Front elevation of 183 Upper Craigour



View of the unfinished ceiling repair, the hanging spot lights and the water damaged wallpaper



View of the bare floor in the living room following removal of the damaged carpet. No smoke detection in the living room.



View of the exposed threshold carpet gripper strip at the living room entrance



View of the kitchen – no heat detection



View of the first floor bedroom boiler – no ventilation via the door and no carbon monoxide detector in the bedroom



The defective WC at first floor level