

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 24 (1) of the Housing (Scotland) Act 2006.

Chamber Ref: FTS/HPC/RT/17/0144

Title no: REN20633

1/2, 7 Orchard Street, Paisley, PA1 1UY ('The House')

The Parties:-

Renfrewshire Council, Renfrewshire House, Cotton Street, Paisley, PA1 1BR ('the Third Party Applicant').

Asghar Ali, 28 Leven Street, Pollokshields, Glasgow, G41 2JE ('the Landlord').

Matthew Scott residing at 1/2, 7 Orchard Street, Paisley, PA1 1UY ('the Tenant').

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Mike Links (Ordinary Member).

Decision

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) in relation to the House, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. The Third Party Applicant applied to the Tribunal 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 ('the Act').

2. The application stated that they considered that the Landlord has failed to comply with his duty to ensure that the House meets the repairing standard. They advised that the House was not wind and watertight and in all other respects reasonably fit for human habitation; Any fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and proper working order; Any furnishings provided by the Landlord under the tenancy are not capable of being used safely for the purpose for which they are designed and the House does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

In particular the application stated:-

- 2.1. The bedroom window is draughty at the base.
- 2.2. The shower head in the bathroom is leaking at the link with the extendable hose.
- 2.3. There are no handles on the doors in the living room, bedroom and front door of the flat.
- 2.4. There are no smoke alarms or fire detection systems in the property.
- 2.5. The sofa provided by the Landlord is ripped.
- 2.6. The mattress provided by the Landlord is extremely dirty and in poor condition.

The application also stated that the Tenant of the Property is Matthew Scott ('The Tenant').

3. The Convenor of the Tribunal, having considered the application, comprising documents received on 19th April 2017, referred the application under Section 22 (1) of the Act to a Housing and Property Chamber Tribunal.

4. On 28th April 2017 the President of The Housing and Property Chamber served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord, Renfrewshire Council and, for information purposes, on the Tenant.

5. The Tribunal attended at the Property on 28th June 2017. The Landlord and also Elaine McIntosh of Renfrewshire Council were present at the inspection. The Tenant was not in the Property during the inspection.

The House is the middle flat on the first floor in a four storey traditional grey sandstone tenement, which dates from circa 1890. The tenement has a slate roof, a communal door entry system and was generally in a poor condition. In particular the corbelled oriel was supported with metal shoring.

The accommodation comprises one bedroom, living room with kitchenette off, and bathroom.

The Tenant's belongings were in the property but the property was very untidy with food, dishes, belongings, mail and rubbish strewn throughout the property. The property had not been cleaned for some time.

The Tribunal inspected the alleged defects and found:-

5. 1. The bedroom window is draughty at the base.

The bedroom window is a modern double glazed unit. The surveyor member of the Tribunal carried out a portable flame test to determine if there are draughts around the window frame but found that there were no draughts at the inspection.

5.2. The shower head in the bathroom is leaking at the link with the extendable hose.

The Landlord and Elaine McIntosh of Renfrewshire Council confirmed that a new shower head had been fitted. The Tribunal were unable to test it as there was no electricity available in the property.

5.3. There are no handles on the doors in the living room, bedroom and front door of the flat.

The Tribunal found there are door handles missing from the outside of the bedroom door, the inside of the living room door and the inside of the front door.

5.4. There are no smoke alarms or fire detection system in the property.

The Landlord explained that he had previously installed battery operated smoke alarms in the property. However the Tribunal found that there were no battery operated smoke alarms and no hardwired smoke alarms or heat detectors in the House at the inspection.

5.5. The sofa provided by the Landlord is ripped.

The sofa had a rip on the left hand cushion. The Tribunal acknowledged that given the untidy condition of the House, previously described, the Tenant may have been responsible for the rip in the sofa.

5.6. The mattress provided by the Landlord is extremely dirty and in poor condition.

The Landlord and Elaine McIntosh of Renfrewshire Council both confirmed that a replacement mattress had been provided.

Photographs were taken during the inspection and are attached as a Schedule to this report.

6. Following the inspection of the House the Tribunal held a hearing at Wellington House, 134-136 Wellington Street, Glasgow, G2 2XL.

The Landlord, and Elaine McIntosh of Renfrewshire Council attended the hearing.

In respect of the matters in the application the parties advised as follows:

6. 1. The bedroom window is draughty at the base.

The parties made no comments.

6.2. The shower head in the bathroom is leaking at the link with the extendable hose.

The parties confirmed that a replacement shower head had been provided and made no further comments.

6.3. There are no handles on the doors in the living room, bedroom and front door of the flat.

The Landlord accepted that there are door handles missing from the outside of the bedroom door, the inside of the living room door and the inside of the front door and made no further comment.

6.4. There are no smoke alarms or fire detection system in the property.

The Landlord accepted that there is no smoke alarm system in the property.

6.5. The sofa provided by the Landlord is ripped.

The Landlord explained that he was going to replace the sofa but due to the fact that the Tenant was not properly cleaning and maintaining the property he decided that it was not worth replacing the sofa at this time.

6.6. The mattress provided by the Landlord is extremely dirty and in poor condition.

The Landlord confirmed that he had supplied a replacement mattress.

7. Findings of Fact

The Tribunal accepted that a replacement mattress and showerhead had been provided by the Landlord.

Therefore the issues to be determined and the findings of fact are:-

7.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether there was a draught from the base of the bedroom window. The Tribunal found no such draught at the inspection and consequently determined that the bedroom window was wind and water tight.

7.2 The fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order (Sections 13(1)(d) of The Housing (Scotland) Act 2006).

The Tribunal found that there were only one door handle of each of the front, bedroom and living room doors. There were door handles missing from the outside of the bedroom door, the inside of the living room door and the inside of the front door. The missing door handles mean that these doors cannot easily be opened and consequently they are NOT in a reasonable state of repair and proper working order.

7.3 Any furnishings provided by the landlord under the Tenancy are capable of being used safely for the purpose for which they are designed (Sections 13(1) (e) of The Housing (Scotland) Act 2006).

The Tribunal found that the left hand cushion of the sofa was ripped. They acknowledged that the Tenant may have caused the rip given the general unkempt state of the property. Accordingly they determined that they would not make an order in relation to the sofa as they considered this matter to be deminimis.

7.4 The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (Sections 13(1) (f) of The Housing (Scotland) Act 2006).

The Tribunal acknowledged that the statutory guidance requires:

- One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.
- One functioning smoke alarm in every circulation space, such as hallways and landings.
- One heat alarm in every kitchen.
- All alarms should be interlinked.

The Tribunal determined that the House does NOT have satisfactory provision for detecting fires and for giving warning in the event of fire as there are no smoke or heat detectors in the property.

Decision

8. The Tribunal accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 13 (1)(d) and 13(1)(f) of the Act, as stated.

9. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

10. The decision of the Tribunal was unanimous.

Appeal

11. 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.

J Taylor

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.....Chairperson

5th July 2017

Housing and Property Chamber

First-tier Tribunal for Scotland



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

SCHEDULE OF PHOTOGRAPHS

FLAT 1 / 2, 7 ORCHARD STREET, PAISLEY PA11UY

REF: FTS/HPC/RT/17/0144 DATE: 28TH JUNE 2017 *sh/17*

J Taylor



Front elevation



Bedroom window



Missing door handle—Bedroom



Missing door handle---Living Room



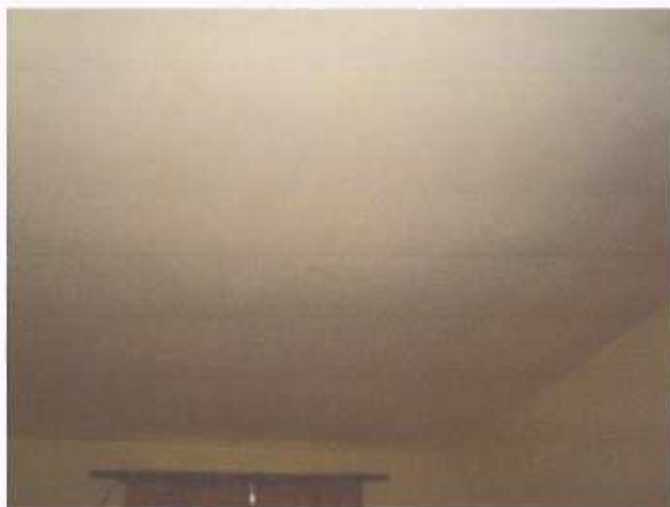
Missing door handle---Entrance door



New shower head



Kitchenette ceiling-----no heat detector



Living room ceiling—no smoke detector



Hall ceiling---no smoke detector



Sofa---torn seat



Bedroom----replaced mattress

Housing and Property Chamber

First-tier Tribunal for Scotland



Repairing Standard Enforcement Order **Ordered by the First-tier Tribunal for Scotland** **(Housing and Property Chamber)**

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The Parties:-

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The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Mike Links (Ordinary Member).

NOTICE TO **The said Asghar Ali**

Whereas in terms of their decision dated 5th July 2017, 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 and in particular the Landlord has failed to ensure that any fixtures, fittings and appliances provided by him under the tenancy are in a reasonable state of repair and proper working order and that the House has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

The Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the house 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 to:-

'1. To install smoke and heat detectors in the House as follows:

- (a) One functioning smoke alarm in the living room;*
- (b) one functioning smoke alarm in the hall;*

(c) one heat alarm in the kitchenette, and
(d) all alarms should be interlinked.

2. Replace the missing internal front door handle, the internal living room handle and the external bedroom door handle.'

The Tribunal orders that these works must be carried out and completed by 18th August 2017.

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.

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 a landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy agreement 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 preceding page are subscribed at Irvine on 5th July 2017 by Jacqui Taylor, chairperson of the Tribunal, in the presence of the witness Michelle Currie, 65, High Street, Irvine.

J Taylor

Signed.....

Chairperson

Michelle Currie

..

.....witness

..... Date 5th July 2017