

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).

Chamber Reference: PRHP/RP/16/1031
Title Number: ELN8287
Property address: 3 Forth View Walk, Tranent EH33 1FE (the “house”)
The Parties:- Jean Martin, Frank Martin, Holly Aydin, Peter Martin and Zoe Cairns (“the tenants”)
Maxine Kirkwood, The Mason Arms, St Mellons Road, Marshfield, Cardiff DF3 2TX (“the landlord”)

NOTICE to:

Maxine Kirkwood

Whereas in terms of a decision dated 26 April 2017 the Tribunal determined that the landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlord had failed to ensure that the house meets a repairing standard in 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.

The Tribunal now requires the landlord to carry out such works as is necessary for the purpose 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 –

- (i) To obtain a Gas Safety Certificate confirming that the livingroom fire has been tested and is safe for use.
- (ii) To repair the boiler in the downstairs playroom and thereafter obtain a Gas Safety Certificate confirming that it has been tested and is safe for use.

The Tribunal ordered that the work specified in this order must be carried out and completed within a period of one month of being notified of the decision.

Right of Appeal

A landlord or tenant or third party applicant aggrieved by the decision of the Tribunal may apply 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 from the date the decision was sent to them.

Where such an appeal is made, the effect of the decision will be treated as having effect from the date on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Mark Thorley, Solicitor, 51 South Bridge, Edinburgh EH1 1LL, Chairperson of the Tribunal at Edinburgh on the Twenty sixth day of April Two Thousand and Seventeen before this witness:-

M Thorley

__ witness

__ chairperson

ALISON GIBSON name in full

51 SOUTH BRIDGE Address

EDINBURGH EH1 1LL

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Housing (Scotland) Act 2006 Section 24(1)

Chamber Reference: PRHP/RP/16/1031

Title Number: ELN8287

Property Address: 3 Forth View Walk, Tranent EH33 1FE

The Parties:- Jean Martin, Frank Martin, Holly Aydin, Peter Martin
and Zoe Cairns ("the tenants")

Maxine Kirkwood, The Mason Arms, St Mellons Road,
Marshfield, Cardiff DF3 2TX ("the landlord")

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

Decision

The Tribunal, having made such enquiries as is fit for the purpose of determining whether the landlord has complied with the duties imposed upon her by Section 14(1)(b) in relation to the property concerned, and taking account of the evidence presented in the written representations, determine that the landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act").

Background

1. By application on 29 December 2016, the tenants applied for a determination of whether the landlord has failed to comply with duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006.

2. The application by the tenants set out that the landlord had failed to comply with Section 13(1)(c), (d) and (g) of the Act. The tenants' complaints set out the following:
 - a. There are outstanding works to be undertaken following a Gas Safety Check.
 - b. There were leaks from both a showerroom and bathroom into both the livingroom and diningroom.
 - c. There was no main light fixture in the kitchen.
 - d. The front door main glass panel was unsafe and loose.
 - e. The front door handle was faulty.
3. In the documentation submitted by the tenants it was described that the tenants had rented the house from on or about 1 July 2015. The landlord is Maxine Kirkwood.
4. The tenants had produced copies of email correspondence dating between 24 August 2016 and 1 December 2016. The tenants also confirmed that they were due to vacate the premises with effect from 31 December 2016.
5. Following upon service of the Notice of Referral written communication was received by way of email from Iain Kirkwood providing a copy of a Gas Safety Certificate dated 18 November 2016.
6. The Tribunal consisted of the following members:-
 - a. Mr Mark Thorley – Legal Member
 - b. Susan Napier – Ordinary Member
7. The Tribunal inspected the house on the morning of Monday 6 March 2017. The landlord was represented by Jacqueline McShane.

8. Following upon the inspection the Tribunal held a hearing at George House, 126 George Street, Edinburgh EH2 4HH. Neither the tenants nor the landlord attended.
9. Accordingly the matter was dealt with upon the basis of the inspection together with the written representations made by the tenant and the Gas Safety Certificate provided by the landlord.

Findings in Fact

The Tribunal made the following findings in fact:-

1. The tenants had entered into a lease with the landlord for the house at 3 Forth View Walk, Tranent EH33 1FE.
2. The house is a detached property on three floors built in about 2004.
3. The weather at the time of inspection was cold and dry.
4. The inspection revealed the following:-
 - a. Subsequent to the tenants departing there were no new tenants and the property was undergoing a renovation. The damage to the livingroom and diningroom ceilings had been repaired.
 - b. The glass panel at the front door did not appear to be faulty or loose.
 - c. The door handle at the front door worked.
 - d. All lights in the kitchen were functioning.
 - e. The bathroom and shower room on the first floor appeared to have been repaired.
 - f. The Gas Safety Certificate had identified that it had not been possible to test the livingroom fire and that in addition the central heating boiler in the ground floor playroom had failed and had been described as not being safe.

Reasons for the Decision

In considering the repairing standard issue the Tribunal carried out an internal and external inspection of the property and in particular examined the specific defects highlighted by the tenant in the application. In addition the Tribunal considered the written documentation from the tenant and the documentation from the landlord.

In relation to the issues as identified the following matters were identified:-

1. The Gas Safety Certificate highlighted works to be undertaken in relation to the gas fire in the livingroom and the central heating boiler in the playroom.
2. The leaks from the bathroom and shower room had been repaired.
3. All lights were functioning in the kitchen.
4. The main door to the house had a glass panel which was properly fitted and that the handle was working.

Decision

The Tribunal, in considering the terms of Section 13(1)(c) of the Act, determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect that safe appliances in relation to the gas fire in the livingroom and the central heating boiler in the playroom in accordance with the Gas Safety Certificate.

The Tribunal proceed to make a Repairing Standard Enforcement Order as required by Section 24(2).

The decision of the Tribunal was unanimous.

Right of Appeal

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These presents type written on this and the four preceding pages are executed by Mark Thorley, Solicitor, 51 South Bridge, Edinburgh EH1 1LL, Chairperson of the Tribunal at Edinburgh on the Twenty sixth day of April Two Thousand and Seventeen:-

M Thorley

_____ chairperson



APPENDIX 1

HOUSING & PROPERTY CHAMBER FIRST-TIER TRIBUNAL FOR SCOTLAND

HPC?RP/16/1031- 3 Forth View walk, Tranent EH33 1FE

PHOTOGRAPHS OF INSPECTION 6 MARCH 2017 AT 1000



Large detached house with Living Room, Dining Room, Kitchen and Family room on Ground Floor. Four bedrooms, bathroom and shower room on first floor, and two bedrooms on second floor. There are gardens front and rear, and no garage (this was converted to the family room).

Carbon Monoxide detector outside boiler cupboard door



Gas Boiler



Gas Fire in Living Room



Shower room



Ceiling in Living room



Bathroom



Ceiling in Dining room



Kitchen Light fitting



Front Door



Smoke Detector – battery operated



**Susan Napier BSocSc FRICS
Ordinary Member**