

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)

Chamber Ref: FTS/HPC/RP/17/0425

24A Shirrel Avenue, Bellshill, ML4 1JR
("the Property")

The Parties:-

Miss Karima Lalji, residing at the property
("the Tenant")

Mrs May Elizabeth Bowles and Mr John Simon Bowles, per Prospect Properties, 32 McLean Drive, Bellshill, ML4 2ST; 37 Hamilton Road, Bellshill, North Lanarkshire, ML4 1AG
("the Landlords")

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 Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The tribunal consisted of:-

Patricia Anne Pryce	- Legal Member
Mike Links	- Ordinary Member (Surveyor)

Background

1. By application comprising documents received on/between 14 and 23 November 2017, the Tenant applied to the First-tier Tribunal (Housing and Property Chamber) for a determination of whether the Landlords 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 Landlords had failed to comply with their duty to ensure that the house

meets the repairing standard and that the said failure was established as follows:-

- (a) "The radiator in the living room is not working properly and is falling off the wall.
- (b) The sockets in the living room.
- (c) The window in the living room and in the main bedroom do not close properly.
- (d) The coving in the bedrooms is falling down.
- (e) The shower unit is not working.
- (f) The ceiling at the entrance is falling down.
- (g) The gas emergency pipe is on the ceiling and there is no way to get to it in an emergency.
- (h) The plastic tiles on the wall behind the cooker in the kitchen are falling off.
- (i) The timer for the heating is not working.
- (j) The smoke alarms need to be hard-wired.
- (k) An electrical certificate is needed.
- (l) The hob plates in the kitchen are not working.
- (m) The oven is not working.
- (n) The skirting boards need replacing."

The Tenant considered that the Landlords are in breach of their duty under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlords have failed to ensure:-

- (i) The house is wind and watertight and in all other respects reasonably fit for human habitation.
 - (ii) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
 - (iii) 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.
 - (iv) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - (v) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or of suspected fire.
3. By Minute dated 13 December 2017 the Convener of the tribunal, with delegated powers under Section 96 of the Housing (Scotland) Act 2014 and Section 21(8A) of the Act, intimated a decision to refer the application under Section 23(1) of the Act to a tribunal.
4. The tribunal served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlords, the Tenant and the Landlords' representatives advising that the inspection and hearing would take place

on 31 January 2018 and 10 am and 11.30 am respectively. No submissions were received from the Landlords or their representatives or the Tenant.

5. By email of 3 January 2018, the Tenant advised that she wished to withdraw her application. The tribunal thereafter issued a Minute of Continuation under Schedule 2 Paragraph 7(3) of the Housing (Scotland) Act 2006 as it considered that the application should be determined on the grounds of public interest as some of the complaints were a potential risk to health. The Tenant was no longer a party to the application.

The Inspection

6. An inspection and hearing were arranged as noted above. The tribunal attended at the property. Only the Tenant was in attendance at the property. The Landlords did not attend the inspection nor were they represented at the inspection. The tribunal noted the following at inspection:-
 - The radiator in the living room had been repaired and affixed to the wall.
 - The socket located on the right-hand wall on entering the living room was loose and defective.
 - The Tenant provided the tribunal with a Gas Safe Certificate dated 9 January 2018.
 - The window in the living room had been repaired and now closed properly.
 - There was missing skirting board in the living room.
 - The window in the main bedroom had been repaired and now closed properly.
 - The coving in both bedrooms was loose and defective.
 - The gas stop valve was located immediately below the kitchen ceiling.
 - There was a battery-operated smoke alarm located in the entrance hallway.
 - There was no smoke alarm in the living room.
 - There was no heat detector in the kitchen.
 - There was a battery-operated smoke alarm located on the ceiling of the upper landing.
 - The kitchen oven and hob had been replaced.
 - The imitation tile panels located on the wall adjacent to the hob in the kitchen were loose and coming away from the wall.
 - The ceiling in the entrance hallway was loose and cracked plasterwork was coming away from the ceiling.
 - There was a carbon monoxide detector located above the boiler.
 - There was no Electrical Installation Certificate available in respect of the property.
 - The central heating timeclock has been repaired.

The schedule of photographs taken by the Ordinary Member of the tribunal at the inspection is attached to this decision.

The Hearing

7. No one attended at the hearing. The Landlords did not attend the hearing nor were they represented at the hearing.

The tribunal proceeded to make a decision based on its findings at the inspection.

Summary of the issues

8. The issue to be determined is whether the repairing standard has been met in light of what the tribunal viewed at the inspection.

Findings of fact

9. The tribunal finds the following facts to be established: -
- The Tenant entered into a tenancy with the Landlords which was a short-assured tenancy.
 - The Tenant remains in the property and has lived there since April 2017.
 - The property is an upper maisonette flat within a three-storey terraced block of flats constructed of part facing brick and rough cast finish with a pitch and tiled roof.
 - It comprises a hallway, living room, kitchen, two bedrooms, upper landing and bathroom.
 - There are no hard-wired smoke detection devices located within the property.
 - The electric socket in the living room is loose and defective.

Reasons for the decision

10. The tribunal noted that in terms of the present application the Tenant had first notified the Landlords of some of the repairs on entry to the property in April 2017 and of other outstanding repairs in November 2017. Despite this and despite various works having been carried out to the property by the Landlords, outstanding repairs issues remained. The tribunal is extremely concerned that there are insufficient smoke and heat detection devices within the property which poses a potentially serious health risk to any occupant of the property. The tribunal is of the view that this requires to be rectified as a matter of urgency.

Given all of the circumstances, the tribunal is satisfied that: the house is wind and watertight and in all other respects reasonably fit for human habitation as the windows in the living room and main bedroom have been repaired; the structure and exterior of the house (including drains, gutters

and external pipes) are in a reasonable state of repair and in proper working order as no evidence was offered within the application in relation to this; the installations in the house 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 as there is a loose and defective socket located within the living room. However, the Tribunal considers that the location of the gas safety valve does not breach this part of the Repairing Standard.; any fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order as there are missing skirting boards within the living room, the tile panels in the kitchen are defective, defective coving within the bedrooms and plasterwork located in the ceiling of the entrance hallway is loose and coming away; the house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or of suspected fire as the two smoke alarms in the property are battery operated, there are an insufficient number of alarms in the property and there is no heat detection device within the kitchen.

Decision

11. The tribunal accordingly determined that the Landlords had not complied with the duty imposed by Section 14 (1)(b) of the Act.
12. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
13. The decision of the tribunal was unanimous.

Right of Appeal

14. 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

P Pryce

Signed
Date

31 January 2018

Legal Member

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006
Section 24**

Chamber Ref: FTS/HPC/RP/17/0425

Title no/Sasines Description: LAN157214

**24A Shirrel Avenue, Bellshill, ML4 1JR
("the House")**

The Parties:-

**Miss Karima Lalji, residing at the property
("the Tenant")**

**Mrs May Elizabeth Bowles and Mr John Simon Bowles, per Prospect Properties,
32 McLean Drive, Bellshill, ML4 2ST; 37 Hamilton Road, Bellshill, North
Lanarkshire, ML4 1AG
("the Landlords")**

Whereas in terms of their decision dated 31 January 2018, the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") and in particular that the Landlords have 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. (Section 13 (1) (c) of the 2006 Act)
- (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. (Section 13 (1) (d) of the 2006 Act)
- (c) The house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or of suspected fire. (Section 13 (1) (f) of the 2006 Act)

the Tribunal now requires the Landlords 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 Landlords:-

- (a) To repair or replace the defective electric socket located in the living room so that it is in a reasonable state of repair and in proper working order.
- (b) To produce an Electrical Installation Condition Report from a SELECT or NICEIC registered electrician and to undertake any work which is identified in said report to be of Category C1 or C2.
- (c) To install hard-wired and interlinked smoke detectors within the entrance hallway, the living room and the upper landing along with an interlinked heat detection device within the kitchen compliant with current regulations.
- (d) To repair or replace the defective skirting board located in the living room so that it is in a reasonable state of repair and in proper working order.
- (e) To repair or replace the coving located in both bedrooms to ensure that it is in a reasonable state of repair and in proper working order.
- (f) To repair or replace the defective and loose plasterwork located in the ceiling of the entrance hallway to ensure that it is in a reasonable state of repair and in proper working order.
- (g) To repair or replace the defective tile panels in the kitchen to ensure that they are in a reasonable state of repair and in proper working order.

The Tribunal order that the works specified in this Order must be carried out and completed within the period 21 days from the date of service of this Notice.

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.

In terms of Section 63 of the Act, 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 type written on this and the preceding two pages are executed by Patricia Anne Pryce, legal member of the Tribunal, at Glasgow on 31 January 2018 in the presence of the undernoted witness:-

N Pryce

P Pryce

_____ witness

N Pryce

_____ name in full

55 BLYTHSWOOD ST Address

GLASGOW

_____, Member