

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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

**Reference Number: FTS/HPC/RP/17/0450**

**RE: Property at 1 Muirhouse Crescent, Edinburgh EH4 4QF**

**(hereinafter referred to as “the Property”).**

**Title Number: MID136552 in the Land Register of Scotland**

**The Parties:-**

**Miss Claire Williamson, 1 Muirhouse Crescent, Edinburgh EH4 4QF**

**(“the Tenant”)**

**And**

**Ms Farah Yousaf, 52 Mountcastle Drive South, Edinburgh EH15 1PL**

**(“the Landlord”)**

**NOTICE TO**

**Ms Farah Yousaf, 52 Mountcastle Drive South, Edinburgh EH15 1PL**

**(“the Landlord”)**

**Whereas in terms of their decision dated 27<sup>th</sup> March 2018, the First-tier 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”) and, in particular, that the Landlord has failed to ensure that the Property is wind and water tight and in all other respects reasonably fit for human habitation, that 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 and that the fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.**

**The First-tier Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard under section**

**13(1) of the Act and that any damage caused by carrying out of any work required under this Order is made good.**

**In particular, the First-tier Tribunal requires the Landlord:-**

- 1) To instruct a Gas Safety inspection of the Property by an appropriately qualified Gas Safe engineer. To carry out all works identified as being required to allow a Gas Safety Certificate to be issued for the Property in order to ensure that the Property's installations for the supply of gas and any gas appliances are in a reasonable state of repair and in proper working order. The Gas Safety Certificate and all invoices for work carried out to be sent to the office of the First-tier Tribunal: Housing and Property Chamber.**
- 2) To repair or replace the cover for the sewer/drain in the rear garden of the Property in order to ensure that the fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.**
- 3) To repair or replace the internal and external seals round the living room front window and window sill in order to ensure that the Property is wind and water tight and in all other respects reasonably fit for human habitation.**
- 4) To repair or replace the front door to the Property to ensure that the Property is wind and water tight and in all other respects reasonably fit for human habitation.**
- 5) To instruct specialist heating contractors to inspect the installations (including the boiler and radiators) for space heating and heating water within the Property and identify any works required to remediate same. To carry out all such works identified in the specialist report in order to ensure that such installations for space heating and heating water are in a reasonable state of repair and in proper working order. The specialist contractor's report and all invoices for work carried out to be sent to the office of the First-tier Tribunal: Housing and Property Chamber.**

**The First-tier Tribunal order that works specified in this Order must be carried out and completed within the period of 30 days from the date of service of this Order.**

**A landlord, tenant or third-party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date of 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 Repairing Standard Enforcement Order (RSEO) commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (including any successor in title) also commits an offence if he or she or they enter into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to a house. This is in terms of Section 28(5) of the Act.

IN WITNESS HEREOF, these presents typewritten on this page and the preceding two pages are executed by Rory A. B. Cowan, Legal Member of the First-tier Tribunal: Housing and Property Chamber at Glasgow on 27<sup>th</sup> March 2018 before this witness:

R Cowan

Sig

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Date: 27 March 2018

Rory A. B. Cowan  
A Pirie

...

..... Witness

Date: 27 March 2018

.....  
ANDREW PIRIE ..... Name of Witness

.....  
16, ROYAL EXCHANGE SQUARE ..... Address of Witness  
GLASGOW, G1 3AG

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**First-tier tribunal for Scotland (Housing and Property Chamber)**

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

**Chamber Ref: FTS/HPC/RP/17/0450**

**Property at 1 Muirhouse Crescent, Edinburgh EH4 4QF**

**("The Property")**

**The Parties:-**

**Miss Claire Williamson, 1 Muirhouse Crescent, Edinburgh EH4 4QF**

**("the Tenant")**

**Ms Farah Yousaf, 52 Mountcastle Drive South, Edinburgh EH15 1PL**

**("the Landlord")**

**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) in relation to the house concerned, and taking account of the written representations by and on behalf of the Tenant, those on behalf of the Landlord and the inspection, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

**The Tribunal consisted of:**

**Rory A.B. Cowan – Legal Member**

**David Lawrie – Surveyor/Ordinary Member**

## Background

- 1) By application received on 30<sup>th</sup> November 2017 the Tenant applied to the First-tier tribunal: Housing and Property Chamber 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 the Landlord had failed to comply with her duty to ensure that the Property meets the repairing standard and in particular that the Landlord had failed to ensure that:-
  - a) the house is wind and water tight and in all other respects reasonably fit for human habitation.
  - b) 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.
  - c) that any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
  - d) That the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
- 3) By letter dated 25<sup>th</sup> January 2018 the President of the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal.
- 4) The tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord, her agents Mr Imran Hussain of Edinlaw Residential, 153 Constitution Street, Edinburgh EH6 7AD (the Agent), the Tenant and her representatives the Community Help and Advice Initiative, 555 Gorgie Road, ELS House Edinburgh EH11 3LE.
- 5) Following service of the Notice of Referral, written representations were received on behalf of the Landlord from the Agents and on behalf of the Tenant.
- 6) The tribunal inspected the Property on the morning of 12<sup>th</sup> March 2018. The Tenant was present with her representatives and provided access. Neither the Landlord or the Agent were present at the inspection.
- 7) Following the inspection of the Property, the tribunal held a hearing at George House, 126 George Street, Edinburgh EH2 4HH. The Tenant attended with a Mr McCloskey of Community Help and Advice Initiative and her partner David Hunter. In addition, a Sara Hesp was present from the First-tier Tribunal as an

observer, but took no part of the proceedings. The Landlord and Agent did not attend.

## **The Hearing**

8) On behalf of the Tenant it was submitted as follows:-

a) Bed Bugs

That in the front 2 bedrooms and the sitting room the Property had bed bugs. The issue was first noticed on or around 3<sup>rd</sup> January 2017 when her son, who was 7 years old at the time, displayed what she thought was a rash. Medical advice was sought, and the initial diagnosis was that the rash related to an allergic reaction. A few days later her other son woke up with the same rash. Both children were given medication from their General Practitioner and there was a referral made to a Consultant in Dermatology. This occurred on or around 26th February 2017. There had been no instances of such a rash before these dates. The Tenant indicated that she was asked regarding the presence of bed bugs and she thereafter checked one of the beds in the Property where she noticed there were "hundreds" of bed bugs on the bed frame. In response to that the Tenants stated that all the furniture and the carpets were removed and disposed of. Subsequently, bed bugs were noticed in the living room on the sofa. The Tenant stated that they treated the Property themselves with various sprays and lavender oil. The Tenant claimed that the Agent stated that he would arrange for the problem to be treated, but no treatment was forthcoming. The Tenant indicated and accepted that the infestation came from the neighbouring property (Number 3) which is occupied by her mother. She also indicated that the local authority had investigated matters and treated the neighbouring property twice.

b) The Cooker

The Tenant stated that the gas hob had been inspected by engineers instructed by the Agent and that they had stated the hob was a "fire hazard" as it was too close to the rear wall and the wall mounted kitchen units and that she had been advised not to use the rear 2 burners on the hob. The Tenant was unable to produce a copy of the advice sheet that she claimed had been left by the engineers as she was not living in the Property at the date of the inspection as various works were being carried out to the Property by the Landlord. The Tenant also stated that there was no automatic cut-off on the hob. The Tenant then complained that there was burning and chemical smell from the oven when it was in use and that it had been like that since she had moved in. At the time of inspection neither the hob nor the oven could be used as the electricity and gas supplies had been switched off due to works to the Property.

c) Exposed Sewer/Drain

The Tenant stated that there was an uncovered sewer drain in the rear garden. That the sewer/drain was originally covered by a concrete slab which cracked

and subsequently broke and the opening has been covered by a loose fitting wooden cover. She claimed that the depth of the hole was 4-5 feet and that her daughter had previously fallen into it in the summer of 2016. The Tenant was unable to access the rear garden at the time of inspection due to the key for the back door having been misplaced.

d) Windows

The Tenant stated that the front window in the living room let in a draught and that there was large crack at the bottom of the window running the length of the inside window sill. She claimed that the double-glazed unit on the right-hand side of the windows had failed and misted up. The Tenant stated that the main bedroom windows did not have locks or working handles, but these have been replaced and now work properly.

e) The Front Door

The Tenant indicated that there was a gap at the bottom of the front door and that you could see through to the outside even when the door was closed. She claimed the door was therefore not wind and water tight. The Tenant also stated that the rear door in the kitchen (which could not be opened at the time of inspection) also had a gap at the bottom of it and you could see the outside.

f) Boiler Thermostat

Although listed in the application that the Tenant complained of there being no thermostat on the boiler, the Tenant confirmed that the issue she had was that there was no timer on the boiler, there was no wall mounted thermostat within the Property and that it was not programable.

g) Gas Safety Certificate

The Tenant stated that, whilst an engineer had been out to the Property to inspect the gas appliances, no gas safety certificate had been produced by the Landlord for the Property.

h) Carbon Monoxide Detector

The Tenant indicated that, whilst there was a carbon monoxide detector upstairs next to the gas boiler, there was no working carbon monoxide detector in the kitchen.

i) Heating and Hot Water System

The Tenant stated that the water had been stopped due to a leak and the electricity had been switched off too. She indicated that before this the radiators did not come up to an acceptable temperature and stayed cold. She also indicated that the hot water was only "luke warm".

j) Back Door Key

The Tenant stated that a back-door key had been produced by the Agent, but that it had been misplaced. She indicated that she thought it may be in the hands of workmen who were attending to repairs at the Property.

#### Summary of the issues

- 10) The issues to be determined are whether:
- a) the house is wind and water tight and in all other respects reasonably fit for human habitation.
  - b) 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.
  - c) that any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order
  - d) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health

#### Findings of fact

- 11) The tribunal finds the following facts to be established:-
- a) The Tenant was a tenant for the purposes of section 14(1) of the Act.
  - b) That the tenancy commenced on or around 1<sup>st</sup> August 2014.
  - c) That the Property is a former local authority 2 storey end terraced dwelling house of roughcast cavity brick wall construction with a concrete tiled roof. The Property was built circa 1955.
  - d) The accommodation comprises of 2 rooms and a kitchen at ground floor with 3 bedrooms and a bathroom at first floor. All rooms are accessible off the downstairs hallway or the upstairs landing.
  - e) The Property has a gas supply, gas boiler and central heating.
  - f) The furniture and carpets in the front bedrooms had been removed.
  - g) That the likely source of the bed bugs previously found in the Property was the neighbouring property at 3 Muirhouse Crescent, Edinburgh.



- h) That 3 Muirhouse Crescent has been treated by the local authority to eradicate the infestation.
- i) That the bed bugs were first noticed on or around 3<sup>rd</sup> January 2017 some 2 and a half years after the Tenant took occupation of the Property.
- j) That no gas safety certificate for the Property has been provided to the Tenant by the Landlord.
- k) That the oven was dirty and contained a significant amount of food debris left by the Tenant.
- l) That in the rear garden the sewer is covered by a loose piece of wood.
- m) That the handles to the windows to the main bedroom have been repaired and are in proper working order.
- n) That whilst the front window in the living room appeared sealed on the outside there was a large crack along the inside window sill which let in cold air and the said window is therefore not wind and watertight.
- o) That the issue of failed double glazing units has not been notified to the Landlord.
- p) That the front door has no weather bar and there is a gap at the bottom of same which lets in wind and water. The front door is therefore not wind and watertight.
- q) That the back door to the Property could not be opened at inspection but was close fitting and there were no obvious gaps.
- r) That the boiler is programable and the temperature of the hot water and the heating could be adjusted using the controls on the boiler.
- s) The lack of a wall mounted thermostat is not a repairing standard issue.
- t) That the lack of a carbon monoxide detector was not an issue notified to the Landlord, but in any event the Property contained a carbon monoxide detector as required under current regulations.
- u) That the gas hob does not have an automatic cut off device but was not constructed with one. The gas hob is in a reasonable state of repair and in proper working order (so far as could be determined).
- v) That the heating system and hot water system were not in a reasonable state of repair and proper working order.
- w) That a key for the back door had been supplied to the Tenant.

## Reasons for the decision

- 12) The tribunal was not satisfied that the Property was wind and water tight and in all other respects reasonably fit for human habitation for the following reasons:
  - a) The front door of the Property had no weather bar and a significant gap was evident at the bottom of the door.
  - b) The front window of the living room had a large crack in the inside window sill through which cold air enters the Property.
- 13) The tribunal was not satisfied that 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 for the following reasons:-
  - a) The tribunal, in the absence of any contrary evidence for the Landlord, accepted the evidence of the Tenant that the heating and hot water system in the Property did not function properly and that radiators and the hot water did not come up to a reasonable temperature.
  - b) That the Tenant had not been provided with a gas safety certificate for the gas appliances within the Property.
- 14) The tribunal was not satisfied that the fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order for the following reason:
  - a) That the sewer/drain in the rear garden is covered by a loose-fitting piece of wood and therefore presents a danger to anyone using the rear garden.

## Decision

- 13) The tribunal accordingly determined that the Landlord has failed to comply with her duties imposed by Section 14 (1) of the Act.
- 14) The tribunal therefore decided to make a Repairing Standard Enforcement Order (RSEO) as required by section 24(1).
- 15) The decision of the tribunal was unanimous.

- 16) The Surveyor/Ordinary Member of the tribunal took several photographs which form the schedule attached to this decision.

#### Right of Appeal

- 17) 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.
- 18) 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.

R Cowan

Signed

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Date

.....27<sup>th</sup> March 2018.....

Chairperson

# Housing and Property Chamber

## First-tier Tribunal for Scotland



### PHOTOGRAPHIC SCHEDULE

1 MUIRHOUSE CRESCENT EDINBURGH EH4 4QF  
HPC/RP/17/0450

Front Elevation



Side and Rear Elevations



Boiler



Glasgow 27th March 2018  
This is the scheduled  
photograph supplied to the  
decision dated 27th March 2018  
R Cowan

**Rear Garden – Board Covering Drain**



**Front Door – Missing Threshold and Weather Bar**



**Oven**



**Smoke Detector – Hall**



**Smoke Detector - Landing**



**DAVID LAWRIE**  
Ordinary/Surveyor Member  
First-Tier Tribunal  
Housing and Property Chamber

13 March 2018