

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/18/0196

Sasines Description: ALL and WHOLE that property known as and forming flat 11/1 Cathcart Place, Edinburgh, EH11 2HD which is the southmost house on the ground floor of 11 Cathcart Place aforesaid being part of the subjects more particularly referred to and described in the Disposition to John Harvey, recorded 22 May 1900 in the General Register of Sasines.

**11/1 Cathcart Place, Edinburgh, EH11 2HD
("the House")**

The Parties:-

**Mr Habibul Alam Kazi, residing at the property
("the Tenant")**

**Mrs Mamataz Begum Rashid (otherwise Momotaz Begum Rashid), 7 Orwell
Place, Edinburgh, EH11 2AD
("the Landlords")**

Represented by APM Lettings, 198 Morrison Street, Edinburgh, EH3 8EB

Whereas in terms of their decision dated 31 May 2018, 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") and in particular that the Landlord has failed to ensure that:-

- (i) 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.
- (ii) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
- (iii) Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they were designed.

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:-

- (a) To repair or replace the floor in the bathroom, including the floor covering, to ensure that it is in a reasonable state of repair and in proper working order.
- (b) To repair or replace the kitchen units to ensure that they in a reasonable state of repair and in proper working order.
- (c) To repair or replace the panel located behind the toilet in the W.C. to ensure that it is in 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 28 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 page are executed by Patricia Anne Pryce, legal member of the Tribunal, at Glasgow on 31 May 2018 in the presence of the undernoted witness:-

N Pryce

P Pryce

witness

Legal Member

NICHOLAS PRYCE name in full

55 BLYTHESWOOD ST Address

GLASGOW

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/18/0196

**11/1 Cathcart Place, Edinburgh, EH11 2HD
("the Property")**

The Parties:-

**Mr Habibul Alam Kazi, residing at the property
("the Tenant")**

**Mrs Mamataz Begum Rashid, 7 Orwell Place, Edinburgh, EH11 2AD
("the Landlord")
Represented by Mrs Zarina Singh, APM Lettings, 198 Morrison Street,
Edinburgh, EH3 8EB**

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, determined that the Landlord 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
Andrew Murray	-	Ordinary Member (Surveyor)

Background

1. By application comprising documents received between 29 January 2018 and 16 March 2018, 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 that the Landlord had failed to comply with her duty to ensure that the house meets the repairing standard and that the said failure was established as follows:-

- (a) "Two bedrooms full of damp.
- (b) Kitchen furniture needs repair.
- (c) Kitchen needs ventilator.
- (d) Kitchen damp.
- (e) Living room also damp.
- (f) Bathroom very smelly and is a poisonable place.
- (g) Toilet is windy.
- (h) Heater stops every day.
- (i) Damp all over the house.
- (j) Electric sockets sparking."

The Tenant considered that the Landlord is in breach of her duty under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlord has 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) Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they were designed.
- (vi) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

3. By Minute dated 27 March 2018 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 Landlord, the Tenant and the Landlord's representatives advising that the inspection and hearing would take place on 31 May 2018 at 10 am and 11.30 am respectively. Submissions were received from the Landlord through her representatives together with further emails from the Tenant.

condensation. The tribunal also noted that there are missing sections of timber ceiling panels located in the bathroom ceiling. Although this does not form part of the present application, the tribunal would urge the Landlord to rectify this.

Right of Appeal

15. 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 May 2018


Legal Member

Photographic Schedule – 11/1 Cathcart Place Edinburgh EH11 2HD

To Accompany Case reference: FTS/HPC/RP/18/0196

Date of Inspection: 31 May 2018



1 Example of ill-fitting kitchen wall unit



2 Example of ill-fitting kitchen base unit



3 Typical example of condensation mould growth at skirting level



4 Typical example of condensation mould growth at skirting level



5 The gap in the skirting in the toilet behind the WC



6 Showing one of the missing section of ceiling board in the bathroom



7 The location of the sagging bathroom floor, ripped vinyl flooring and proud nailing