

Housing and Property Chamber First-tier Tribunal for Scotland



REPAIRING STANDARD ENFORCEMENT ORDER

Chamber Reference number: FTC/HPC/RP/19/0913

Parties:

1. Ms. Mhairi Wilson residing at 231B, Main Street, Bellshill ML4 1AJ ("the Tenant"))
and
2. Mr. Peter Chinskie Durnion, residing at residing at 14, Lauranne Place, Bellshill, ML4 3HX ("the Landlord")

Property: 231B, Main Street, Bellshill ML4 1AJ being the subjects registered in the Land Register for Scotland under Title Number LAN53079 ("the Property")

Tribunal Members

Karen Moore (Chairperson)

Andrew Murray (Ordinary Member)

Notice to Landlord

Peter Chinskie Durnion, residing at residing at 14, Lauranne Place, Bellshill, ML4 3HX.

Whereas in terms of its decision dated 17 May 2019, the First-tier Tribunal for Scotland 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 Landlords have failed to comply in respect of Sections 13 (1) (a), 13(1) (c), 13(1) (f) and 13(1) (g) of the Act and have failed to ensure that the Property is wind and watertight and reasonably fit for human habitation, that the Landlord has failed to ensure that the installations in the Property for the supply of electricity is in a reasonable state of repair and in proper working order, that the Landlord has failed to ensure that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and that the Landlord has failed to ensure that the Property has satisfactory provision for giving warning if carbon monoxide

is present in a concentration hazardous to health the First-tier Tribunal now requires the Landlords to carry out the following works or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good.

The Landlord must on or before **30 June 2019**:-

1. Instruct a Scottish Building Federation or Federation of Master Builders registered building contractor or contractors capable of providing a 10- year guarantee to inspect the roof of the Property with a view to recommending works required to make the roof fully wind and watertight and, thereafter, instruct a Scottish Building Federation or Federation of Master Builders registered building contractor or contractors capable of providing a 10- year guarantee to carry out and complete all works so required and confirm in writing to the Tribunal and the Tenant the identity of the building contractor or contractors, the date on which the works will commence and the estimated date for their completion;
2. Repair or replace and repaint the ceiling in the kitchen area bedroom of the Property;
3. Provide a mechanical ventilation system in the bathroom which should be fully compliant with the current building regulations and should be vented externally of the Property;
4. Instruct a SELECT, NAPIT or NICEIC electrician (i) to carry out a full inspection of the electrical installation throughout the Property, the purpose of which inspection is to ensure that the electrical installation in the Property and the Landlord's appliances therein are safe and fit for purpose (ii) to repair, replace or renew any parts which require to be renewed, replaced or repaired to ensure the installation is fully functioning and meets current regulatory standards and (iii) thereafter to issue a complete and compliant electrical installation condition report ("EICR") and/or an Electrical Installation Certificate in accordance with the Scottish Government statutory guidance on electrical installations and appliances in private rented property;
5. Instruct a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and report ("the Gas Report") on the operation and effectiveness of the gas fired heating and hot water supply installation including boiler, all radiators, valves, programmers and thermostats. Thereafter, instruct a suitably qualified and Gas Safe registered heating engineer to complete the works recommended by the

Gas Report to ensure that the entire system is fully functioning, safe and in proper working order and, on completion of the works as recommended in the Gas Report, provide a copy of the Gas Report and any receipted invoices for work carried out to the Tribunal and deliver a valid CP12 Gas Safety Certificate to the Tribunal and the Tenant and

6. Make good all décor damaged as a result of these works including the painting of the ceilings affected by water ingress.

Note to Landlord:-

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.

Further, in terms of Section 28(1) of the Housing (Scotland) Act 2006, a landlord who, without reasonable excuse, fails to comply with a Repairing Standard Enforcement Order commits an offence liable on summary conviction to a fine not exceeding Level 3 of the standard scale, and in terms of Section 28(5) of that Act, 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 Repairing Standard Enforcement Order has effect in relation to the house.

In Witness Whereof these presents printed on this and the two preceding pages are subscribed by Karen Moore, Chairperson of the tribunal, at Glasgow on [] May 2019 before this witness, Norman William Moore, solicitor, 11, Muirfield Business Centre, South Muirhead Road, Cumbernauld, G67 1AX

N Moore

K Moore

Witness

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 24 (1) of the Housing (Scotland) Act 2006 ("the Act") in respect of an application under Section 22(1) of the Act

Chamber Reference number: FTC/HPC/RP/19/0913

Parties:

1. Ms. Mhairi Wilson residing at 231B, Main Street, Bellshill ML4 1AJ ("the Tenant")
and
2. Mr. Peter Chinskie Durnion, residing at residing at 14, Lauranne Place, Bellshill, ML4 3HX ("the Landlord"), together referred to as "the Parties"

Property: 231B, Main Street, Bellshill ML4 1AJ being the subjects registered in the Land Register for Scotland under Title Number LAN53079 ("the Property")

Tribunal Members

Karen Moore (Chairperson)

Andrew Murray (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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, determined that the Landlord has not complied with the duty imposed by Section 14 (1) (b) of the Act in respect that the Property meets the Repairing Standard in respect of Sections 13 (1) (a), 13(1) (c), 13(1) (f) and 13(1) (g) of the Act and that for the reasons set out below.

Background

1. By application received on 21 March 2019 ("the Application"), the Tenant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a

- iii) Evidence of provision for detecting fires and for giving warning in the event of fire or suspected fire in the Property;
 - iv) Evidence of a carbon monoxide detector in the Property and
 - i) Evidence of safety certificates for the Property
6. At the Inspection, the Tribunal took digital photographs which photographs form the Schedule annexed to this decision.

Hearing

7. Following the Inspection, a Hearing was held at the Glasgow Tribunal Centre, 22, York Street, Glasgow G2 8GT on the same day at 11.30 a.m. Neither the Tenant nor the Landlord was present.

Summary of the Issues

8. The issues to be determined by the Tribunal are whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (a), 13(1) (f) and 13(1) (g) of the Act at the date of the Inspection and Hearing.

Findings of Fact

9. Mr. Peter Chinskie Durnion, residing at residing at 14, Lauranne Place, Bellshill, ML4 3HX is the owner of the Property in terms of Land Certificate LAN53079 and that Ms. Mhairi Wilson is the tenant in terms of a private residential tenancy between the Parties.
10. The Property is an upper floor flatted house being part of a of two storey tenement of houses and shops at 231 to 237 Main Street, Bellshill constructed circa [1900]. The Property is brick built with roughcast exterior and a pitched tile roof. The Property comprises a living room and open plan kitchen, one bedroom accessed directly from the living room and kitchen area and an internal bathroom also accessed from the living room and kitchen area. The Property itself is accessed from the rear of the tenement via an external common stair and balcony. bedrooms and a bathroom with garden to the front and rear.
11. From the Inspection, the Tribunal found the following in respect of matters specifically complained of in the Application:
- i) There is large hole in the ceiling of the kitchen area and water ingress staining on several parts of the ceilings throughout the Property;

16. In respect of the complaint in terms of Section 13 (1) (f) of the Act that the Landlord has failed to ensure that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, there being no compliant smoke or heat detectors in the Property, the Tribunal found that at the date of the Inspection and Hearing the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
17. In respect of the complaint in terms of Section 13 (1) (g) of the Act that the Landlord has failed to ensure that the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration hazardous to health, there being no compliant carbon monoxide detector in the Property, the Tribunal found that at the date of the Inspection and Hearing the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
18. The decision is unanimous.

Repairing Standard Enforcement Order

19. Having determined that the Landlords have failed to comply with the duty imposed by section 14(1)(b), the tribunal proceeded to make an RSEO as required by Section 24 (1) of the Act.

Notice to Landlord

20. The Landlord's attention is drawn to the terms of Part 1 at Chapter 4 of the Act and to his specific statutory duties prescribed therein.
21. The Landlord's attention is drawn to the Scottish Government Statutory Guidance issued under the Section 13 of the Act and to the Scottish Government Advice Pack for Private Landlords.
22. The Landlord's attention is drawn to Section 28(1) of the Act which states that a landlord who, without reasonable excuse, fails to comply with an RSEO commits an offence liable on summary conviction to a fine not exceeding Level 3 of the standard scale, and in terms of Section 28(5) of that Act, 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 Repairing Standard Enforcement Order has effect in relation to the house.

This is the schedule of photographs referred to in the foregoing decision of even date,

K Moore

17 May 2019

Photographic Schedule – 231b Main Street Bellshill ML4 1AJ

To Accompany Case reference: FTS/HPC/RP/19/0913

Date of Inspection: 15 May 2019

Tribunal Attendees – Mr A Murray (Ordinary Member) Mrs Karen Moore (Chair)

Tenant – Ms M Wilson



1 The hole in the lounge/kitchen ceiling due to water penetration



2 The evidence of water penetration in the bedroom ceiling



3 The absence of heat detector in the lounge/kitchen



4 The absence of a carbon monoxide detector in the vicinity of the gas boiler



5 The defective smoke detector in the entrance hall



6 The blocked off extract ventilation fan in the bathroom