

# **Housing and Property Chamber**

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

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

**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006  
Section 24(1)**

**Chamber Ref: FTS/HPC/RP/17/0540**

**Title no: GLA 15170**

**3/3 60 Kent Road, Glasgow, G3 7EF ("The Property")**

**The Parties: -**

**Zhengdao Wellington Lee, 3/3 60 Kent Road, Glasgow, G3 7EF ("the Tenant")**

**Razia Rashid, 10 Chelmsford Drive, Glasgow, G12 0NA; Razia Rashid,  
Countrywide lettings, 2<sup>nd</sup> Floor, 26 Springfield Court, Glasgow, G1 3DQ ("the  
Landlord")**

Whereas in terms of their decision dated 27 March 2018 the First-tier Tribunal for Scotland (Housing and Property Chamber) ('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 ("the Act") and that the Landlord had failed to ensure that the property meets the repairing standard with reference to the following provisions of Section 13 of the Act, as amended: -

- (a) The house is wind and watertight and in all other respects reasonably fit for human habitation,
- (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, and
- (c) Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed.

The Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the property 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: -

- (1) To instruct a suitably qualified window contractor to repair the windows throughout the property to ensure that they exclude draughts, are in a reasonable state of repair and proper working order, or to replace the windows,
- (2) To repair and re-instate the study table and set of drawers in the main bedroom or replace them with a new study table and set of drawers,
- (3) To replace the microwave in the kitchen with a new microwave,
- (4) To repair the blind in the bathroom so it is in full working order, or replace it with a new blind, and
- (5) To repair the dining table and chairs in the living room or replace them with a new dining table and chairs.

The Tribunal order that the works specified in this Order must be carried out and completed within the period of six weeks 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 typewritten on this and the preceding page are executed by Josephine Bonnar, Solicitor, Legal Member and Chair of the Tribunal at Motherwell on 27 March 2018 before this witness: -

Josephine Bonnar

Gerard Bonnar \_\_\_\_\_ Witness  
Name in full

1 Carlton Place, Glasgow

# **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/17/0540**

**Title no: GLA 15170**

**3/3 60 Kent Road, Glasgow, G3 7EF ("The Property")**

**The Parties: -**

**Dr Zhengdao Wellington Lee, 3/3 60 Kent Road, Glasgow, G3 7EF ("the Tenant" )**

**Razia Rashid, 10 Chelmsford Drive, Glasgow, G12 0NA; Razia Rashid, Countrywide Lettings, 2<sup>nd</sup> Floor, 26 Springfield Court, Glasgow, G1 3DQ ("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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act.

**The Tribunal comprised: -**

**Mrs Josephine Bonnar, Legal Member**

**Mr Nick Allan, Ordinary Member**

## Background

1. By application received on 27 December 2017 the Tenant applied to the First-tier Tribunal for Scotland (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 stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard. The Tenant stated that the Landlord had failed to ensure that (i) The house is wind and watertight and in all other respects reasonably fit for human habitation, (ii) Any fixtures, fittings and appliances supplied by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, and (iii) Any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed. Specifically, the Tenant stated that when he moved into the property the bedroom was bare, smelly and dirty, that he had no useable bed or mattress, that the table, wardrobe and curtains in the bedroom require to be replaced, that there is a cracked window pane in the kitchen, that the microwave needed to be replaced, that there is an exposed nail in the wardrobe in the second bedroom, a broken window blind in the bathroom, damaged hallway carpet and chairs, damaged dining room table and chairs, that the windows in the property required to be serviced and that the bedroom window in particular is defective and that he has not been provided with an electrical safety certificate.
3. The First-tier Tribunal for Scotland served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant on 16 February 2017. The parties were notified that an inspection and hearing would take place on 13 March 2018.
4. Following service of the Notice of Referral the Landlord's agent lodged brief written representations and on date made a request for a postponement of the inspection and hearing so that they could investigate the nature of the complaints. The Tenant opposed the request. The Tribunal considered the request by the Landlord and the Tenant's opposition to same and refused the request. The Tenant did not lodge any written additional representations in advance of the hearing.

5. The Tribunal inspected the property on the morning of 13 March 2018. The Tenant was present. The letting agent, Paula Neeson of Countrywide Lettings attended on behalf of the Landlord.
6. Following the inspection of the property the Tribunal held a hearing at Teacher's Building, 14 St Enoch Square, Glasgow. The Tenant and the letting agent, Paula Neeson attended and gave evidence. Ms Neeson advised that the Landlord was unable to attend.

### **The Inspection**

7. At the time of the inspection the weather was bright, dry and cold. The Tribunal inspected the property which is a two bedroom third floor tenement flat in the centre of Glasgow.
8. The Tribunal inspected the Tenant's bedroom. It noted that the room is furnished only with a bed, which is in good condition. There is a carpet which appears to be relatively new. The Tribunal inspected the window, a single glazed unit which requires to be re-painted. The window can be open and closed, but the frames are loose, the putty between the glass and the frames is missing in places, and draughts could be detected when the window was closed. The Tribunal inspected the bathroom. It noted that the window is in a similar condition to the bedroom window and that the main part of the blind, the fabric which covers the window, is missing although there is a roller and cord still in place. The Tribunal also noted that the light fitting in the bathroom is not of a suitable type to be located so close to the shower, and there are exposed wires near the ceiling. In the living room the Tribunal was directed to the dining table and chairs. The frame of the table has split, and the chairs are wobbly and damaged. Again, the windows were noted to be in a similar condition to the others, and there was evidence of timber rot in the frames. In the kitchen a cracked window pane was noted. The window frames were again in a similar condition to those in the other rooms. The Tribunal was directed to the microwave, which is in poor condition which some rust evident. In the second bedroom the Tribunal were directed to the wardrobe and noted a small exposed nail on the frame. In the hallway, the Tribunal noted some marks and stains on the carpet and some dismantled furniture and damaged kitchen chairs leaning against the wall. The property was noted to have a carbon monoxide detector in the kitchen, which was tested and found to be in working order. Hard wired smoke and heat detectors were also noted. The tribunal noted the presence of a ladder and some discarded items, which the Tenant advised belonged to the contractors who carried out work to the property in

August 2017, and the previous Tenant.

## **The Hearing**

9. At the hearing the Tribunal first heard evidence from the Tenant. Dr Lee confirmed that there is a joint tenant in relation to the property, who is not a party to the application. He then advised that he first viewed the property on 18 July 2017. Thereafter, he paid a holding fee for the property. There was repair work scheduled which led to a delay in the tenants taking entry to the property. The lease was signed on 2 August 2017. No inventory of furnishings was signed with the lease. Dr Lee advised the Tribunal that the property was still undergoing repairs and they did not move in until 12 August 2017. However, the works were still not complete, and the property was not in a fit state for them to live in.
10. **The Tenant's bedroom.** Dr Lee advised the Tribunal that when he viewed the property the bedroom was fully furnished with a bed, a wardrobe, a rack for hanging clothes, drawers and a study table. However, when he moved in, the study table and drawers had been dismantled and were in pieces in the hall. Both the wardrobe and clothes rack had disappeared. The bed and mattress were filthy and not fit to be used. The carpet was also filthy as a result of repair works carried out to the ceiling. Dr Lee also stated that the bedroom window frame is loose and the window bangs constantly and lets in draughts. He advised that that he has not been able to sleep in the bedroom since he moved in. The Landlord eventually replaced the carpet and mattress, but the noisy, draughty window makes the room impossible to sleep in. He has a makeshift bed set up in the kitchen and has used that since August 2017.
11. **The Windows** Dr Lee advised the Tribunal that the windows throughout the property are in a similar condition to the bedroom window, although it is the bedroom window which has caused most inconvenience. He also advised that the cracked window pane in the kitchen has been in this condition since he moved into the property. He stated that it was caused by one of the letting agent's contractors. In his evidence he stated that the joint tenant went to the property at the beginning of August 2017, to drop off some of his belongings. The window was intact. There were contractors working at the property at the time. The next time he went to the property, he noticed the crack. This happened around 3 August 2017, before both tenants moved in. Dr Lee then advised the Tribunal that the Landlord visited the property in November 2017. Dr Lee was not present, but the other tenant was there. He was

assured that the windows throughout the property would be serviced and repaired. However, to date, no work has been carried out.

12. **Second bedroom.** Dr Lee advised the Tribunal that there is an exposed nail in the clothes rack in the second bedroom, which is occupied by the joint tenant, and this has been there since he moved in to the property.
13. **Microwave.** Dr Lee advised the Tribunal that the microwave in the kitchen is capable of being used to heat food, but it is rusty and there is an unpleasant smell when it is used. He stated that during an inspection by the letting agency, at the beginning of September 2017, the person carrying out the inspection said that the microwave needed to be replaced. To date no replacement has been provided.
14. **Bathroom blind.** The Tenant advised the Tribunal that the blind in the bathroom has been defective since he moved in. There is a cord and a roller at the top of the window but the blind itself is missing.
15. **Living Room.** Dr Lee advised the Tribunal that the table and chairs in the living room have been defective since the start of the tenancy. The chairs cannot be used. If he tries to sit on the chairs he sinks right through as there is no support base and the frames are wobbly. The table frame is also damaged.
16. **Hall.** Dr Lee advised the Tribunal that the carpet in the hall is badly marked. He stated that this was caused by the contractors in the course of the repair works. He also advised that there are 2 broken chairs in the hallway (along with the broken bedroom furniture) which were in the kitchen and which are also not fit to be used.
17. Dr Lee concluded his evidence by advising the Tribunal that, as well as the broken furniture in the hall, there are items left by the previous tenant of the property, and a contractor's ladder. He advised that the letting agent has now sent him a copy of the electrical safety certificate and indicated that this could be forwarded on to the Tribunal.
18. Ms Neeson began her evidence by advising the Tribunal that she had been present at the meeting with the joint tenant on 17 November 2017, referred to by Dr Lee in his evidence. She explained that it was the Landlord's son who attended, on behalf of the Landlord. The purpose of the meeting had been to establish what complaints the tenants had about the property. The joint tenant stated to her and the Landlord's son that the only outstanding issue was the windows. He advised that they needed to be serviced and painted. He did not mention any draughts. It was agreed that the

windows would be fully serviced and painted, and she advised the Tribunal that she has a work order for this job. Since then the contractor has tried to get access to the property to carry out this work. He has made numerous attempts to contact Dr Lee, without success. She advised that throughout the tenancy term she has had no direct contact with Dr Lee. All contact has been with the other tenant. She has attempted to establish the nature of Dr Lee's complaints, but he has failed to engage with her. She confirmed to the Tribunal that the letting agents hold a key for the property and she arranged for a staff member to visit the property recently, the first time they have been into the property since the meeting in November 2017. Ms Neeson advised the Tribunal that prior to the inspection and hearing, she had been unaware of the complaints in relation to the bedroom curtains, the draught from the window, the table and chairs and the blind. She explained that the cracked window pane in the kitchen is scheduled to be fixed, as part of the window servicing, and would have been repaired by now if access had been provided. She further advised that the joint tenant did not report the exposed nail during the meeting in November, so again this was not something they had been aware of. The complaint about the microwave was also not reported. She stated that, if it does require to be replaced, the usual arrangement is to ask the tenants to buy the item and send in the receipt, so they can be reimbursed. She was unaware of the complaint about the blind until the inspection. Likewise, the table and chairs which she confirmed, will be replaced. Ms Neeson advised the Tribunal that Dr Lee had visited the Landlord at home, without prior notice, and that the Landlord had been somewhat alarmed. She further advised that the Landlord has always been keen to resolve any issues, and replaced the bedroom carpet as a goodwill gesture, to appease Dr Lee. However, she advised that it has not been possible to resolve the other matters with Dr Lee as he does not respond to attempts to contact him and as a result, the landlord and letting agent have not been able to establish exactly what complaints he has nor get access to attend to those which have been established, specifically the windows. She stated that the letting agents could not enter the property without permission. However, she confirmed that the Landlord is willing to attend to all necessary repairs.

19. In response to Ms Neeson's evidence, Dr Lee denied that he had not responded to attempts to contact him by the letting agent or contractors instructed by them. He pointed out that the letting agency has a set of keys and used these recently to get access to the property. He referred the Tribunal to the numerous copy emails he lodged with his application, which detail his various complaints, among other matters. Ms Neeson confirmed that she did not dispute that these emails had been sent and received. Dr Lee advised that



he had gone to visit the Landlord in person because he did not believe his complaints were being passed on and he had become very distressed by the whole situation. He concluded by advising the Tribunal that the situation has adversely affected his health and he has had to give up his job as a result of distress it has caused.

20. Following the hearing the Tenant sent in the EICR paperwork referred to during the hearing and which Ms Neeson confirmed that she had no objection to being considered by the Tribunal.

### Findings in Fact

21. The property is a two bedroom third-floor tenement flat in the centre of Glasgow. The Tenancy commenced on 2 August 2017.
22. The windows at the property are single glazed and in a poor state of repair. The frames are loose, and draughts are evident. There is a cracked window pane in the kitchen.
23. The main bedroom in the property is furnished with a bed, a carpet and lightweight, dirty curtains. There is some dismantled furniture and 2 broken chairs in the hallway. There is a small exposed nail in the clothes rack in the second bedroom.
24. The dining table and chairs in the living room are in a state of disrepair. The microwave in the kitchen is rusty and in a poor state of repair.
25. The bathroom blind is defective.

### Reason for decision

26. The Tribunal considered the issues of disrepair set out in the Application and noted at the inspection.
27. **The Tenant's bedroom.** During the inspection the Tribunal noted that there is a relatively new carpet and bed in the main bedroom. Dr Lee confirmed that these were recent replacements, and that he was no longer insisting on these issues as part of his application. The Tribunal also noted that the curtains are dirty and that there is no other furniture in the bedroom, although there is some broken and dismantled furniture in the hallway, identified by Dr Lee as being the former study table and drawers. This was not disputed by Ms

Neeson. The Tribunal is satisfied that the dismantled and broken furniture is not capable of being used safely for the purpose for which it is designed, and that this does amount to a breach of the repairing standard. The Tribunal noted Ms Neeson's argument that this had not been brought to the landlord's attention. However, the Tribunal noted that Dr Lee referred to these issues in several emails to the letting agency. Ms Neeson confirmed in her evidence that she did not dispute that these emails had been sent and received. The Tribunal is therefore satisfied that the Landlord had proper notice of the complaint. With regard to the curtains, the Tribunal noted that these are indeed dirty, but are capable of being used, although the fabric is flimsy and provides little protection from strong light. Although not a breach of the repairing standard, the Tribunal is of the view that the landlord should take steps to replace the curtains. With regard to the tenant's complaint about the lack of a wardrobe, the Tribunal notes that no inventory was signed with the lease and that there was no wardrobe in the bedroom when the tenant moved in. It appears possible that the tenant may have been misled as to the provision of bedroom furniture. However, the failure to provide this furniture is not a breach of the repairing standard.

**28. Windows.** The Tribunal considered the condition of the windows at the inspection and the evidence of the parties at the hearing. Ms Neeson confirmed that the Landlord accepted that some work is required to be carried out in relation to the windows, although this is described as servicing, painting, and replacement of the broken window pane in the kitchen. It is claimed that there was no notification of draughts at the windows. Ms Neeson also states that the work has not been carried out because the Tenant did not provide access. The Tribunal was not persuaded by this argument. The tenant sent numerous emails to the letting agents regarding the various repairs issues. These were lodged with the application and it is not disputed that they were sent and received. An email dated 7 November 2017 makes specific reference to the draughts. In any event, it was clear from the Tribunal's inspection of the windows, that the frames are loose and there are draughts. The putty seal between the glass and the frames in some of the windows is missing. Furthermore, this would have been evident during the inspection by Ms Neeson and the Landlord's son on 17 November 2017. The Tribunal was also not persuaded by the statement that the tenant has not provided access. Dr Lee denied that he had failed to respond to numerous attempts at contact. The letting agent did not provide evidence of this in the form of emails or details of the alleged calls. The Tribunal found Dr Lee to be credible and reliable in relation to this issue. It was clear to the tribunal that Dr Lee has made extensive efforts to get the landlord to address the repairs issues – numerous

emails have been sent and he visited the landlord's home. It does not therefore seem likely that he would not facilitate access. The Tribunal also notes access has been obtained on various occasions, such as when the bedroom carpet and bed were replaced. Dr Lee also pointed out that the letting agents hold a set of keys and that these were used recently to access the property. The Tribunal is therefore satisfied that the Landlord has breached the repairing standard with regard to the windows.

- 29. Second bedroom.** During the inspection the Tribunal noted that there is a small exposed nail in the wardrobe. However, this does not prevent the wardrobe being used, and it was clear that it is being used by the other tenant. The Tribunal did not consider this to be a breach of the repairing standard.
- 30. Microwave.** The Tribunal was advised during the inspection and at the hearing that the microwave can be used, but there is an unpleasant smell. The Tribunal noted that the condition of the microwave is very poor and there is some rust. The Tribunal also accepted the evidence of the Tenant that he was told during an inspection in September 2017 that this would be replaced. The Tribunal is satisfied that the condition of the microwave is a breach of the repairing standard.
- 31. Bathroom blind.** The Tribunal noted during the inspection that the blind is defective and cannot be used for the purpose for which it is designed. The Tribunal is also satisfied that this matter was notified to the landlord – in an email dated 20 September 2017 – and furthermore would have been evident when the windows at the property were inspected in November 2017. The Tribunal is satisfied that the condition of the blind amounts to a breach of the repairing standard.
- 32. Furniture in living room.** The Tribunal is satisfied that the dining table and chairs are damaged. The chairs are wobbly and there is no support base to the seat. The frame of the table has split. The Tribunal is also satisfied that this matter has been brought to the Landlord's attention, by email dated 7 November 2017, and that a breach of the repairing standard has been established.
- 33. Hallway.** The complaint made in relation to the hallway is that the carpet is dirty, caused by the contractors in the course of the repair works. The Tribunal noted that some areas of the carpet are not very clean. Although the Tribunal is of the view that the landlord should address this issue it is not considered to amount to a breach of the repairing standard. The discarded and broken kitchen chairs currently placed in the hallway do not appear to be part of the

application before the Tribunal and accordingly, no finding is made with regard to same.

34. **EICR.** The Tribunal considered the terms of the EICR sent in by the Tenant following the hearing. It is dated 27 March 2014. The Tribunal notes that the electrical installation is assessed as satisfactory and passes the inspection. The Tribunal notes that the report recommends that the electrical installation be upgraded. However, no breach of the repairing standard is established.
35. The Tribunal accordingly took the view that the property fails to meet the repairing standard in relation to subsection 13(1)(a), (c) and (d). The windows require to be repaired or replaced, the broken bedroom table and drawers and dining table and chairs require to be repaired and reinstated or replaced. The defective bathroom blind also requires to be repaired or replaced and there should be a new microwave installed in the kitchen. The Tribunal is therefore required to make a repairing standard enforcement order in terms of subsections (a), (c) and (d) in relation to these matters.

#### Decision

36. The Tribunal determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
37. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1)
38. The decision of the Tribunal is unanimous

#### Right of Appeal.

**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.

Signed... **Josephine Bonnar** ..... 27 March 2018  
Josephine Bonnar, Legal Member