

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/18/1521

Title no/Sasines Description: MID91779

Property: 8 Oxfangs House, Oxfangs Grove, Edinburgh EH13 9HE ("The House")

The Parties:-

Miss Gemma Hicks, 8 Oxfangs House, Oxfangs Grove, Edinburgh EH13 9HE ("the tenant")

Thomas Reilly, ("the landlord")

Whereas in terms of their decision dated 15 October 2017 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 the house is:-

- (a) The boiler required to be inspected by a gas heating engineer to establish that it was in a reasonable state of repair and in proper working order.
- (b) The kitchen requires a complete overhaul in terms of the cabinets. There requires to be plumbing work undertaken to the drainage pipes under the sink.
- (c) The bath panel requires to be properly attached to the bath.

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 have the boiler in the house inspected by a suitably qualified and registered gas heating engineer to establish that it is in a reasonable state of repair and in proper working order and to provide a written report in respect of same.
- (b) To undertake a complete overhaul of the kitchen in terms of the kitchen cabinets and to undertake such plumbing work as is required to the drainage pipe from the sink by a suitably qualified tradesman.
- (c) To have attached to the bath the bath panel by a suitably qualified tradesman.

The tribunal order that the works specified in this Order must be carried out and completed within the period of 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.

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(s) are executed by Mark Richard Thorley 20 Hopetoun Street, Edinburgh EH7 4GH chairperson of the tribunal at Edinburgh on 22 October 2018 before this witness:-

M Thorley

A Gibson _____ witness

_____ chairperson

A Gibson _____ name in full

20 HOPETOUN STREET Address

EDINBURGH EH7

4GH

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision: Housing (Scotland) Act 2006 Section 24(1)

Chamber Ref: FTS/HPC/RP/18/1521

Title no/Sasines Description: MID91779

Property: 8 Oxgangs House, Oxgangs Grove, Edinburgh EH13 9HE ("The House")

The Parties:-

Miss Gemma Hicks, 8 Oxgangs House, Oxgangs Grove, Edinburgh EH13 9HE ("the tenant")

Thomas Reilly, ("the landlord")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') having made such enquiries as it saw fit for the purpose of determining whether the landlord has complied with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, determined that the landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Act. The tribunal consisted of –

Mark Thorley, Legal Member

Greig Adams, Ordinary Member

Background

1. By application dated 26 June 2018 the applicant 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"). The application stated that the applicant considered that the landlord had failed to comply with his duty to ensure that the property meets the repairing standard and in particular the landlord had failed to ensure that:-
 - (a) Several internal doors stick in their frames presenting a fire risk, due to difficulty opening.
 - (b) The boiler has several leaks which jeopardises heat/hot water supply.
 - (c) The kitchen is in a very poor state of repair.
 - (d) The bath panel has become detached.

2. The tribunal served a notice of referral upon the landlord and the tenant and an inspection of the house and hearing were fixed for 2 October 2018.
3. Following service of the notice representations were received from the respondent indicating that all repairs had been done.

The inspection

1. The tribunal inspected the property on the morning of 2 October 2018. The weather conditions were dry and sunny.
2. The property is on the ground floor of a block of properties. The property internally consists on the ground floor of a livingroom and kitchen. There is an internal stair leading to three bedrooms and a bathroom.
3. The tenancy is a joint tenancy held between the applicant and Lisa Charman. At the inspection Ms Charman was present. The landlord did not attend. Photographs were taken and are attached as a schedule to this decision.

The hearing

1. Following inspection of the property the tribunal held a hearing at 126 George Street, Edinburgh EH2 4HH. Neither the landlord nor the tenant were present.
2. The tribunal considered the issues in the following order:-

- (a) Several internal doors stick in their frames presenting a fire risk, due to difficulty opening.

The doors were all opened and shut. The doors were described as not being ideal but they were not sticking in their frames.

- (b) The boiler has several leaks, which jeopardises heat/hot water supply.

The tenant advised that the boiler was losing pressure. It might be that the boiler has a leak. In order to establish whether the boiler is losing pressure and has a leak a suitably qualified heating engineer requires to inspect the boiler and confirm thereafter by way of written documentation whether the boiler is in a reasonable state of repair and in proper working order.

- (c) The kitchen is in a very poor state of repair.

The kitchen can be described as being in a very poor state of repair. It was noted that the draining pipe from the sink is not connected. Accordingly water is leaking into the unit underneath the sink.

Various drawer units were not closing. They are generally of a poor state of repair.

(d) The bath panel has detached.

The bath panel remains detached.

Summary of issues

The issues is generally whether the house meets the repairing standard as laid down in Section 13 and whether the landlord has complied with the duty imposed by Section 14(1)(b).

Findings in fact

The tribunal finds the following facts to be established:-

- (a) The tenant entered into a short assured tenancy with the landlord with a commencement date of 12 December 2016.
 - (b) The landlord is the registered owner of the property. The landlord's title is registered in the Land Registers at MID91779.
 - (c) An application was made to the tribunal by application dated 26 June 2018.
1. The internal doors although not ideal are closing.
 2. The boiler requires an inspection by a heating engineer to establish that it is in a reasonable state of repair and in proper working order.
 3. The kitchen is in a poor state of repair.
 4. The bath panel needs to be properly fixed. There is a split in the top right corner.

The tribunal also observed the following:-

- (a) In the bathroom there is significant mould around the tiling of the bath. This requires to be removed and thereafter re-grouted all around and replace all silicon sealants.
- (b) There has been water ingress into the ceiling of the main bedroom and below. This all requires to be dried out and thereafter repaired.
- (c) The boiler requires to be compartmentalised.

Reasons for decision

The tribunal determined that –

1. The internal doors were working sufficiently well.
2. The boiler required to be inspected by a gas heating engineer to establish that it was in a reasonable state of repair and in proper working order.
3. The kitchen requires a complete overhaul in terms of the cabinets. There requires to be plumbing work undertaken to the drainage pipe from the sink.
4. The bath panel be properly attached to the bath.

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.

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In witness whereof these presents type written on this and the preceding page(s) are executed by Mark Richard Thorley 20 Hopetoun Street Edinburgh EH7 4GH, chairperson of the tribunal at Edinburgh on 22 October 2018 before this witness:-

M Thorley

A Gibson

witness

chairperson

A Gibson

name in full

20 HOPETOUN Address

STREET, EDINBURGH

EH7 4GH



**80XGANGS HOUSE,
OXGANGS GROVE,
EDINBURGH, EH13 8HE**

Chamber Ref: FTS/HPC/RP/18/1521

SCHEDULE OF PHOTOGRAPHS



1 External view.



2 Bathroom.



3 Bathroom.



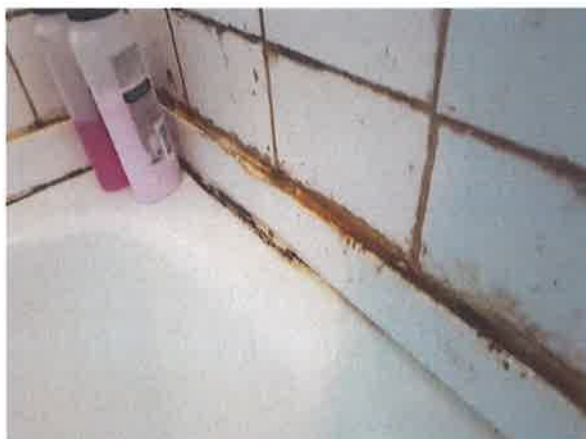
4 Corrosion to radiator in bathroom.



5 Poor fitting of bath panel.



6 Damaged bath panel.



7 Grouting and sealant to bath.



8 Water damage to ceiling.



9 Pedestrian pass door.



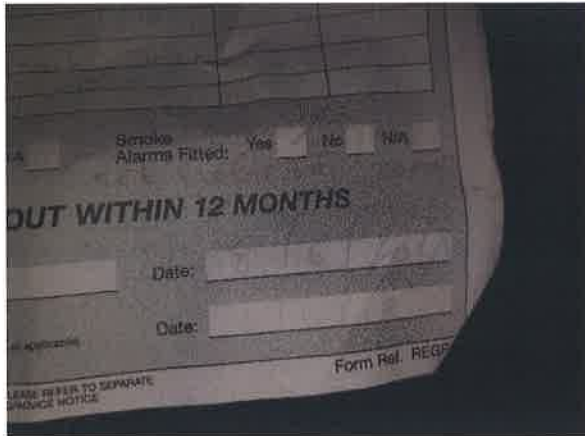
10 Boiler..



11 Flue terminal.



12 Gas Safety Certificate.



13 Gas Safety Certificate.



14 Base unit water damaged in Kitchen.



15 Base unit water damaged in Kitchen.



16 Poor joint to pipework and leaking.



17 Unconnected waste at kitchen sink.



18 Poor condition of kitchen.