

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/18/1782

Land Register Number: REN2691

The Parties:-

**Ms Esther Wainaina, residing at the property, represented by Miss Fiona Brown, Shelter Scotland, 10 Falcon Crescent, Paisley, PA3 1NS
("the Tenant")**

**Amarjit Kaur Natt and Charan Kamal Singh (also known as Charan Singh), 38 Leyshade Court, Dundee, DD4 8XN
("the Landlords")**

Whereas in terms of their decision dated 18 September 2018, the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the Landlords have 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 Landlords have failed to ensure that:-

- (i) The house is wind and watertight and in all other respects reasonably fit for human habitation.
- (ii) 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.
- (iii) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or of suspected fire.

the Tribunal now requires the Landlords 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 Landlords:-

- (a) To repair or replace the windows located in all three bedrooms, to ensure that they are in a reasonable state of repair and in proper working order.
- (b) To repair or replace the single and double gang sockets located in the dining room to ensure that they are in a reasonable state of repair and in proper working order.
- (c) To install a hard-wired and interlinked smoke detector within the living room.
- (d) To obtain an Electrical Installation Condition Report (EICR) by a suitably qualified electrician and to carry out all works identified as required within the said report and, once all of the said necessary works have been carried out including the works in paragraph (b) and (c) above, to produce a further report by a suitably qualified and registered electrician confirming that said works have been carried out.
- (e) To produce a Gas Safe certificate by a Gas Safe registered engineer in respect of all the gas appliances located within the property.

The Tribunal order that the works specified in this Order must be carried out and completed within the period 6 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 type written on this and the preceding page are executed by Patricia Anne Pryce, legal member of the Tribunal, at Glasgow on 18 September 2018 in the presence of the undernoted witness:-

N Pryce

P Pryce

N Pryce

name in full

witness

Legal Member

53 BLYMWOOD 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/18/1782

**16 Heron Way, Renfrew, PA4 0LT
("the Property")**

The Parties:-

**Ms Esther Wainaina, residing at the property, represented by Miss Fiona Brown, Shelter Scotland, 10 Falcon Crescent, Paisley, PA3 1NS
("the Tenant")**

**Amarjit Kaur Natt and Charan Kamal Singh (also known as Charan Singh), 38 Leyshade Court, Dundee, DD4 8XN
("the Landlords")**

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 Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, determined that the Landlords 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
Mike Links	- Ordinary Member (Surveyor)

Background

1. By application comprising documents received on 19 July 2018, the Tenant applied to the First-tier Tribunal (Housing and Property Chamber) for a determination of whether the Landlords 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 Landlords had failed to comply with their duty to ensure that the house meets the repairing standard and that the said failure was established as follows:-

- (a) "No working smoke alarms.
- (b) No heat detector in kitchen.
- (c) No carbon monoxide detector.
- (d) No gas safety certificate provided.
- (e) No electrical safety certificate provided.
- (f) Problems with the boiler pressure.
- (g) Kitchen ceiling light held up by ruler.
- (h) Damage to kitchen ceiling due to water ingress from bathroom.
- (i) Electrical wall sockets in kitchen, dining room, living room and bedrooms not working.
- (j) Radiator in living room leaking.
- (k) Water leaking into the kitchen when shower is used.
- (l) Loose wiring in the hallway and living room.
- (m) Kitchen wall unit hanging off wall.
- (n) Extractor unit not working.
- (o) Broken kitchen and bedroom door handles.
- (p) Draughts from bedroom windows.
- (q) Holes in exterior walls allowing infestation of mice/rats."

The Tenant considered that the Landlords are in breach of their duty under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlords have 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) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or of suspected fire.
- (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 25 July 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 Landlords, the Tenant's representative and the Tenant advising that the inspection and hearing would take place on 18 September 2018 at 10 am and 11.30 am respectively.

The Inspection

5. An inspection and hearing were arranged as noted above. The tribunal attended at the property. The Tenant was in attendance at the property. No one else attended at the property. The tribunal noted the following at inspection:-

- There were hard-wired and interlinked smoke detectors located in the hallway and upper landing.
- There was a hard-wired and interlinked heat detector located in the kitchen.
- There was no smoke detector located in the living room of the property.
- There was a carbon monoxide detector located on the wall in the hall outside the hall cupboard, with the boiler located within that cupboard.
- The Tenant confirmed that she had never received a Gas Safe certificate for the property.
- The Tenant confirmed that she had never received an Electrical Installation Condition Report (EICR) in respect of the property.
- A new boiler had been installed in the hall cupboard, the pressure of which the Tenant confirmed was satisfactory.
- The light on the kitchen ceiling had been repaired.
- The kitchen ceiling had been repaired and the escape of water from the bathroom above had been repaired.
- The electrical sockets in the kitchen functioned properly.
- The single socket located in the dining room did not work when tested.
- The double gang socket in the dining room worked but did not allow a plug to be fully inserted.
- The living room and bedroom sockets had been repaired or replaced and the Tenant confirmed that these worked properly.
- The radiator in the living room had been fixed and no longer leaked.
- The loose wiring in the living room and hallway had been repaired.
- The kitchen wall unit had been repaired and was fixed properly to the wall.
- The hood extractor unit in the kitchen had been replaced.
- The door handles in the kitchen and bedrooms had been replaced.
- The handle of the window located in the double bedroom to the rear of the property was broken and partially missing and the window did not close properly. There was an obvious gap which would allow a draught to enter the room.
- The window located in the front double bedroom could not close and could not lock.
- The window located in the single front bedroom opened without limit, the opening mechanism was unable to control how far the window

opened and there was a clear gap between the window and the frame wherein daylight could be seen.

- There were no holes in the exterior walls. There were two bait traps which had been installed by the local authority. The Tenant confirmed that she had not seen a mouse for around two months and was content that this issue had been resolved.

The schedule of photographs taken by the Ordinary Member of the tribunal at the inspection is attached to this decision.

The Hearing

6. Miss Fiona Brown from Shelter attended as representative for the Tenant. The Tenant had advised the tribunal at the inspection that she would not be able to attend the hearing.
7. The tribunal advised Miss Brown of its findings from the inspection. Miss Brown submitted that she agreed with these findings. She submitted that the Tenant had moved out of the property for one week to allow the Landlords to carry out the repairs to the property which had been undertaken since the application had been submitted. She advised that the Landlords had stated that it was their intention to sell the property and that the Landlords had attempted to prevent the Tenant from moving back in.

The tribunal proceeded to make a decision based on its findings at the inspection together with the application, the written submissions made by the Landlords and the submissions made by Miss Brown at the hearing.

Summary of the issues

8. The issue to be determined is whether the repairing standard has been met in light of what the tribunal viewed at the inspection.

Findings of fact

9. The tribunal finds the following facts to be established: -
 - The Tenant had complained about the state of the property since June 2018 and had advised the Landlords of the repairs issues from that time onwards.
 - The property is a mid-terrace two storey house constructed of load bearing masonry walls with a roughcast finish.
 - It comprises a hallway, kitchen, living room, dining room, three bedrooms and a bathroom.
 - The rent for the property is £550 per calendar month.
 - The Tenant resides in the property with her four children aged 11, 5 and twins of 2 years' of age.
 - There is no smoke detector in the living room.
 - The electrical sockets in the dining room do not function properly.

- The window in the double rear bedroom has a broken and missing handle and it does not close properly.
- The window in the front double bedroom does not close properly and cannot be locked.
- The window in the front single bedroom is broken, the width of its opening cannot be controlled and there is a clear gap where daylight can be seen between the window and the frame.

Reasons for the decision

10. The tribunal noted that in terms of the present application the Tenant had first notified the Landlord of the repairs in June 2018. Despite attending to some of the issues raised, some of the repairs issues remained.

Given all of the circumstances, the tribunal is satisfied that: the house is not wind and watertight and in all other respects reasonably fit for human habitation as the windows located in the bedrooms have gaps, are broken and allow draughts into the house; the structure and exterior of the house are in a reasonable state of repair and in proper working order as the Tenant confirmed that there were no holes on the exterior walls; the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order as the electrical sockets located in the dining room do not function properly, the Tenant was not provided with a Gas Safe certificate for the house nor was she provided with an EICR in respect of the house; any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order; the house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire as there is no smoke detector in the living room; and the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health as there was a carbon monoxide detector located appropriately to the gas boiler.

Decision

11. The tribunal accordingly determined that the Landlords had not complied with the duty imposed by Section 14 (1)(b) of the Act.
12. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
13. The decision of the tribunal was unanimous.

Right of Appeal

14. 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

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18 September 2018

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Legal Member

Housing and Property Chamber

First-tier Tribunal for Scotland



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

SCHEDULE OF PHOTOGRAPHS

ADDRESS: 16 HERON WAY, RENFREW PA4 0LT

DATE: 18TH SEPTEMBER 2018

REFERENCE: FTS/HPC/RP/18/1782



FRONT ELEVATION



HALL- SMOKE DETECTOR



LIVING ROOM- NO SMOKE DETECTOR



KITCHEN- HEAT DETECTOR



LANDING- SMOKE DETECTOR



CO MONITOR-ADJACENT TO BOILER RM



NEW CH BOILER



KITCHEN PENDANT LIGHT-REPAIRED



KITCHEN CEILING REPAIR



DINING RM SOCKET – NOT WORKING



DINING RM-PLUG ILL FITTING



LR—DOUBLE GANG SOCKET-WORKING



LR—RADIATOR LEAK REPAIRED



HALL-LOOSE WIRING TIDIED UP



KIT- NEW EXTRACTOR FAN



KITCHEN-NEW DOOR HANDLES



REAR DOUBLE BED WINDOW



FRONT DBL BEDRM WINDOW



FRONT SINGLE BED WINDOW



KITCHEN-MOUSE BAIT CONTAINER