

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



Chamber Ref: RP/HPC/RP/18/2071

THE PROPERTY:

**27 Everard Drive Glasgow G21 1XG
Title Number: GLA32462**

THE PARTIES:

**Ms Barbra Janowski, residing at the property, (“the tenant”) per her Solicitor,
Ms Wendy Malloy, Govan Law Centre, Enterprise Centre, 18-20 Orkney Street,
Govan G51 2BX,**

and

**Mr Madiha Tariq, 15, Cairngorm Road, Glasgow G43 2XA, (“the landlord”)
The Tribunal:**

**David M Preston, Legal Member and Mr Colin Hepburn Ordinary Member
(Surveyor) (“the tribunal”)**

Whereas in terms of their decision dated 6 December 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”) the tribunal 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:-

- 1. To obtain from a suitably qualified roofing contractor a full report to cover, without prejudice to that generality: the condition of the existing roof cladding and future life expectancy thereof; the condition of the down-pipes gutters and water drainage and disposal facilities.**

- 2. To obtain from a suitably qualified timber and damp specialist a detailed report relative to the property throughout with particular reference to the damp and water ingress with full inspections of the sub-site and void and the ventilation arrangements throughout the property.**
- 3. To carry out such repairs as are identified in the reports as necessary to the roof, gutters downpipes and water drainage and disposal to eliminate the ingress of water to the roof-space and the property.**
- 4. To instruct a suitably qualified plumber and electrician to carry out the necessary repairs to the bath and electric shower unit in the bathroom on the ground floor and to the shower tray and WC in the showroom on the upper floor.**
- 5. To instruct a SELECT or NICEIC electrician to carry out a full inspection of the electrical installation and apparatus throughout the Property and to repair or renew any parts which require to be renewed or repaired. A satisfactory and contemporary Electrical Installation Condition Report should be submitted to the Tribunal.**
- 6. To obtain from a suitably qualified and accredited gas heating engineer a full report on the central heating system throughout the property including the boiler, paperwork, radiators and valves and carry out all necessary work to repair and all replace all defective parts thereafter to produce to the tribunal are satisfactory and contemporary Gas Safe Report.**
- 7. To obtain from a suitably qualified and accredited asbestos management surveyor report on the presence of any asbestos material within the property.**
- 8. To obtain and submit to the tribunal a satisfactory contemporary Energy Performance Certificate.**

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

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.

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: IN WITNESS WHEREOF these presents, typewritten on this and the preceding two pages are subscribed as follows:

Mr David M Preston

Ms Vicki Folan

_____	Chairing Member	_____	Witness signature
<u>GLASGOW</u>	Place of signing	<u>VICKI FOLAN</u>	Witness full name
<u>7 DECEMBER 2018</u>	Date of signing	<u>142 SP. VINCENT</u>	Witness Address
		<u>STREET,</u>	
		<u>GLASGOW</u>	
		<u>G2 5LQ</u>	

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



STATEMENT OF DECISION FOR REPAIRING STANDARD ENFORCEMENT ORDER (“RSEO”) UNDER SECTION 24 HOUSING (SCOTLAND) ACT 2006 (“the Act”).

Chamber Ref: RP/HPC/RP/18/2071

THE PROPERTY:

27 Everard Drive Glasgow G21 1XG

Title Number: GLA32462

THE PARTIES:

Ms Barbra Janowski, residing at the property, (“the tenant”) per her Solicitor, Ms Wendy Malloy, Govan Law Centre, Enterprise Centre, 18-20 Orkney Street, Govan G51 2BX,

and

Mr Madiha Tariq, 15, Cairngorm Road, Glasgow G43 2XA, (“the landlord”)

THE TRIBUNAL:

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

David M Preston (Legal Chair) and Colin Hepburn, Surveyor (Ordinary Member)

Decision:

The tribunal, having made such enquiries as are fit for the purposes of determining whether the landlord had complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as “the Act”) in relation to the property, and taking account of the representations by the tenant:

- 1. Determined that the landlord had failed to comply with the said duty; and**
- 2. Determined to issue a Repairing Standard Enforcement Order (RSEO) under section 24(2) of the Act.**

Background:

1. By application dated 14, received 15 August 2018 the tenant applied to the First Tier Tribunal for Scotland; (Housing and Property Chamber) (hereinafter referred to as HPC) for a determination of whether the landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act.
2. The application by the tenant stated that she considered that the landlord had failed to comply with his duty to ensure that the house meets the repairing standard at the start of the lease and throughout its duration and in particular that the landlord had failed to ensure that:
 - The house is wind and watertight and in all other respects reasonably fit for human habitation;
 - 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;
 - The installations in the property 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;
 - Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order;
 - The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. In particular, the tenant complained that:
 - a. the property suffers dampness throughout;
 - b. water comes in windows and ceilings;
 - c. radiators in the home not working and others slow to heat;
 - d. no Gas Safety Certificate provided;
 - e. asbestos risk in utility room area;
 - f. no carbon monoxide detection;
 - g. external gutters/pipes broken and leaking water.

4. By Decision dated 3 October 2018 a Convener of HPC having delegated power for the purpose, referred the application under Section 22 (1) of the Act to the tribunal. A Notice of Referral, Inspection and Hearing was served on both the landlord and the tenant on 17 October 2018.
5. Following service of the Notice of Referral no further written representations were received from the tenant. No representations were received from the landlord.

Inspection:

6. The tribunal inspected the property on the morning of 27 November 2018. The tenant and Ms Malloy were in attendance throughout the inspection. The landlord did not attend the inspection.
7. The photographs, taken at the time of the inspection referred to below are contained in the Schedule attached hereto.
8. The property is a one and a half storey detached red sandstone house estimated to have been constructed around 90 years ago and located within a mixed commercial and residential area. There is garden ground surrounding the house and a garage adjacent to the west elevation. The front elevation is of pointed red sandstone construction with the other elevations rendered externally. The roof is pitched, clad externally with tiles. (Photograph 64 front elevation)
9. The accommodation, over two levels, may be described as comprising:

On the ground floor: entrance hall with storage cupboard off; lounge / living room; 3 bedrooms (one of which is currently used as a store); kitchen, leading to utility room area; bathroom with bath and shower over, WC and wash hand basin;

On the upper floor: 3 bedrooms; and shower room with WC and wash hand basin.

10. Specific observations relative to the application:

Front ground floor bedroom: (Photographs 1 - 11)

There were extensive signs of damp mould on walls, particularly beneath the bay window. A drawer unit was seen to be infested with damp mould. The windows were affected by condensation to the extent that the window sills were discoloured. Excessive damp readings were found on the walls including the chimney breast wall.

Mould was present on an internal wall adjacent to the door (Photograph**) which was seen to emanate from the hall cupboard (see below).

Lounge / Living Room: (Photographs 25 - 28)

Damp staining was evident: around the base of the front window frame and on the timber window sill, on the chimney breast and adjacent wall. Moisture readings were taken at both areas which proved positive with moisture contents of between 30% and 60% at the areas tested. The windows were affected by condensation.

Kitchen / Utility area: (Photographs 29 - 31)

Areas of mould were seen affecting the walls and kitchen units as well as in the utility area. We did not detect any areas of asbestos as complained of but we are not qualified to make such a finding.

There was no heat detector in the kitchen.

Bathroom: (Photographs 12 - 17)

The flooring adjacent to the bath was seen to be badly affected by water spillage, with holes in the floor as a result. The bath seal appeared to be in poor condition which has contributed to the water damage. The electric shower over the bath was reported by the tenant to be inoperable as she had disconnected the water and electric supplies in approximately 2013 due to the leaks.

Hall Cupboard and Hall: (Photographs 18 – 21 and 39 - 41)

The hall cupboard adjacent to the bathroom wall with the electric shower and the bath was seen to be affected by damp. Meter readings confirmed excessive damp.

A battery-operated smoke detector was fitted in the hall. The tenant advised that she had fitted same.

Rear Ground Floor Bedroom (Right): (Photographs 22-23)

The wall beneath the window and the chimney breast wall were affected by damp mould, as confirmed by excessive moisture readings.

Rear Room (Left) – (presently used as a store): (Photographs 32 – 38)

The external walls were seen to be affected by excessive moisture readings and mould.

This room housed the central heating boiler in a cupboard. The boiler had a clear sign warning of danger – 'DO NOT USE'. The tenant advised that she did continue to use the boiler and said that she had signed a disclaimer letter in respect of such use. She had no other means of heating or hot water. There was evidence of leaking water around the boiler.

There was no carbon monoxide detector in the room housing the boiler cupboard.

The central heating radiators throughout the house were seen to be in poor condition. Some radiators were leaking as were the pipes and valves on others. A number of the radiators were reported not to work at all and others were reported to be very slow to heat.

Passage and Stair:

There was evidence of damp and mould on the walls.

Upstairs Shower Room: (Photographs 42 - 44)

The shower unit was seen to be in poor condition. the tenant reported that the shower could not be used as the grout and seals leaked water into the hall and cupboard below.

The WC was also reported to be inoperable as the cistern overflowed when flushed.

The tenant reported that a workman had attempted in the past to resolve a damp problem beneath the skylight window by use of a plastic bag which had been plastered over.

Bedrooms: (Photographs 45 - 48)

The walls below the velux windows in both front bedrooms as well as the external wall in the left-hand room were affected by damp mould.

The velux window in the left-hand room was insecure and in a dangerous condition.

An inspection of the eaves area in the front right upper floor bedroom disclosed insulation was present but the roof void lacked ventilation. Excessive damp and staining to sarking noted.

External: (Photographs 49 - 62)

The roofing tiles appeared to be of some considerable age. There were slipped and missing tiles. The gutters were in serious need of repair and replacement. There were areas of missing gutters. The downpipes were in poor condition with splits and leaks.

Hearing:

11. Following the inspection of the property the tribunal held a hearing at the Glasgow Tribunal Centre. The tenant did not attend but was represented by Ms Malloy. The landlord did not attend and was not represented. He had not submitted any representations for the consideration of the tribunal.
12. At the start of the hearing the convener confirmed the procedure which it was intended should be followed.
13. Ms Malloy submitted that the inspection made it clear that there was a clear breach of the landlord's duties and that the property was in need of extensive and urgent repair in many respects. She referred to the letters which she had sent to the landlord on the tenant's behalf which outlined the problems as complained of in the application.
14. Ms Malloy said that she had been advised that the tenant had made numerous requests for repairs to be carried out but the landlord had not engaged at any time throughout the tenant's occupation.
15. The tenancy agreement produced bore to be dated 16 January 2012 on the signature page, it covered the period 1 January to 31 December 2017. The 'date' clause on the first page was stated as "1st Jan 2017". The tribunal was advised that this was the second lease to the tenant who had been in occupation of the property since 2012.
16. Ms Malloy advised that the tenant had carried out a number of repairs at her own expense including the installation of double glazing throughout.

Findings of fact:

17. In reaching its decision the tribunal had regard to the documentation listed above submitted with the application as well as the representations made by and on behalf of the tenant.

18. The tribunal finds in fact that:

- a. The tenancy between the parties is an Assured Tenancy, constituted by the Tenancy Agreement between the parties.
- b. The tenant had advised the landlord of the issues with the property and of her concerns.
- c. At the time of inspection, the property failed to meet the repairing standard in a number of respects.
- d. In particular: the property suffers from extensive dampness and condensation throughout; the central heating system throughout requires extensive repair; there was no Gas Safety certificate and indeed the central heating boiler had been condemned; and the roof, gutters, and downpipes were all in need of replacement or repair

Reasons for the decision:

19. The tribunal was satisfied from its inspection that the specific complaints of the tenant outlined in the application and set out at paragraph 3 above were all established so far as could be seen by the tribunal.

20. The tribunal accordingly determined to issue a RSEO and considers that a period of eight weeks is a reasonable time within which the works specified in the order should be carried out in view of the dangerous situation in respect of the central heating boiler in particular and the general condition of the property. The tribunal noted that the landlord had failed to engage with the tenant in respect of her complaints for many years.

In terms of section 46 of the Tribunals (Scotland) Act, a 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.

Mr David M Preston

6 December 2018

.. Chairman

GLASGOW, 6 December 2018

This is the Schedule of photographs referred to
in the foregoing Decision.

Schedule of photographs taken during the inspection of:
27 Everard Drive, Glasgow, G21 1XG

Mr David M Preston
Chairman

By: Colin F Hepburn MRICS, Ordinary Member of the First-Tier Tribunal for Scotland
(Housing and Property Chamber) on the 27 November 2018



Picture 1



Picture 2



Picture 3



Picture 4



Picture 5



Picture 6



Picture 7



Picture 8



Picture 9



Picture 10



Picture 11



Picture 12



Picture 13



Picture 14



Picture15



Picture 16



Picture 17



Picture 18



Picture19



Picture 20



Picture 21



Picture 22



Picture 23



Picture 24



Picture 25



Picture 26



Picture 27



Picture 28



Picture 29



Picture 30



Picture 31



Picture 32



Picture 33



Picture 34



Picture 35



Picture 36



Picture 37



Picture 38



Picture 39



Picture 40



Picture 41



Picture 42



Picture 43



Picture 44



Picture 45



Picture 46



Picture 47



Picture 48



Picture 49



Picture 50



Picture 51



Picture 52



Picture 53



Picture 54



Picture 55



Picture 56



Picture 57



Picture 58



Picture 59



Picture 60



Picture 61



Picture 62



Picture 63



Picture 64