

Housing and Property Chamber

First-tier Tribunal for Scotland



Repairing Standard Enforcement Order (RSEO) made under Section 24 of the Housing (Scotland) Act 2006

Property: Flat 2/2, 110 Lochdochart Road, Glasgow G34 0DF (“the Property”/ “the house”)

Chamber Reference: FTS/HPC/RP/18/2978

Title No: GLA38224

Ejehiokhin Ibhaze, Flat 2/2, 110 Lochdochart Road, Glasgow G34 0DF (“the Tenant”)

Gillian McKechnie, 235 Crofthill Road, Glasgow G44 5NW (“the Landlord”)

Tribunal Members – George Clark (Legal Member/Chairperson) and Mike Links (Ordinary Member/Surveyor)

Whereas in terms of their decision dated 15 January 2019, 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 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:

(1) to carry out such repairs as are necessary to the central heating boiler and system to ensure it is in proper working order, or alternatively, to replace the boiler, the work to be undertaken by a Gas Safety registered engineer, and thereafter to exhibit an up to date Gas Safety Certificate dated after the date of completion of the repair/renewal.

(2) to clean off mould throughout the Property and make good any decoration.

(3) to carry out such repairs as are necessary to ensure the ceiling pendant lights throughout the Property and the fluorescent light in the kitchen are in proper working order, the work to be carried out by an electrical contractor who is registered with NICEIC, SELECT or NAPIT, and thereafter to produce to the Tribunal a satisfactory Electrical Installation Condition Report which must also cover the electric shower in the bathroom.

(4) to carry out such repairs as are necessary to ensure the door to the balcony is in proper working order and is capable of being locked and unlocked and

(5) to investigate the cause of a water leak from the bathroom into the flat below the Property and carry out such repairs as are necessary.

The Tribunal order that the works required by this Order must be carried out within the period of 5 weeks from the date of service of this Order.

Right of Appeal

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.

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 George Barrie Clark, Chairperson of the Tribunal, at Lasswade, on 15 January 2019, before this witness, Valerie Elizabeth Jane Clark, residing at Droman House, Lasswade, Midlothian.

G Clark

V Clark

..... Legal Member/ChairpersonWitness

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 26 (1) of the Housing (Scotland) Act 2006

Property: Flat 2/2, 110 Lochdochart Road, Glasgow G34 0DF (“the Property”/ “the house”)

Chamber Reference: FTS/HPC/RP/18/2978

**Ejehiokhin Ibhaze, Flat 2/2, 110 Lochdochart Road, Glasgow G34 0DF
 (“the Tenant”)**

**Gillian McKechnie, 235 Crofthill Road, Glasgow G44 5NW (“the
 Landlord”)**

**Tribunal Members – George Clark (Legal Member/Chairperson) and Mike
 Links (Ordinary Member/Surveyor)**

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”), determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act and that a Repairing Standard Enforcement Order should be made.

Background

1. By application received on 2 November 2018, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland 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 the duty to ensure that the house meets the repairing standard. In particular, the Tenant stated 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 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 and
 - any fixtures and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
3. In her application and its supporting documentation, the Tenant stated that there was damp in the rooms and in the bathroom, repairs were required to the heating system and there was no hot water. The bathroom, kitchen and corridor lights were not functioning, the door to the balcony needed to be repaired and water was leaking through to the bedroom ceiling of the flat below. The Landlord was not responding to the Tenant's communications. The Environmental Health Department of Glasgow City Council had carried out an inspection and agreed that repairs were required.
 4. On 4 December 2018, the President of the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal, gave Notice of Referral and of the date set for an inspection and hearing.
 5. The Landlord made no written representations to the Tribunal.
 6. The Tribunal inspected the Property on the morning of 15 January 2019. The Tenant was present at the inspection and was accompanied by her representative, Seonaid Cavanagh of Legal Services Agency, Glasgow. The Landlord was not present or represented at the inspection.
 7. The Tribunal comprised George Clark (Legal Member/Chairperson) and Mike Links (Ordinary Member/surveyor).
 8. A file of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.

The Hearing

9. Following the inspection, the Tribunal held a hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The Tenant and her representative were present. The Landlord was not present or represented at the hearing.
10. The Tenant told the Tribunal that the lease had commenced on 15 July 2018. The condition of the Property was affecting the health of the Tenant's four children, who are aged 15, 13, 11 and 6. This was supported by a letter from NHS Greater Glasgow and Clyde, dated 19 December 2018, relating to the health of one of the children and a letter from the

family's GP dated 16 November 2018. The Tenant had nothing further to add to her application and its supporting documents.

11. The Tenant and her representative then left the hearing and the Tribunal considered all the evidence before it and the matters it had noted at the inspection.

Findings of fact

12. The Tribunal makes the following findings of fact:

- The Property is a top floor flat in a three-storey block of flats and is a former local authority house.
- The Tenant, along with her partner, is tenant of the Property, in terms of a Private Residential Tenancy Agreement which commenced on 15 July 2018. They occupy the Property with their four children, aged from 6 to 15 years.
- There is evidence of mould growth in the area of the corner cupboard and above the window of the rear bedroom and at the skirting and on the ceiling below the window of the main bedroom. There is no evidence of mould or dampness in the living room, apart from at low level, adjacent to the door to the balcony, with some evidence of mould growth at the window ledge.
- A wooden strip behind the toilet in the bathroom is saturated.
- The central heating system in the Property is not working and, as a result, there is no supply of hot water. The boiler is shut down, having been disconnected by a gas engineer in August 2018.
- There is a Triton electric shower over the bath, which does produce warm water, but the flow is poor.
- There is no key for the door to the balcony and the lock is defective. The Property is, as a result, insecure.
- The light fitting in the rear bedroom is not properly attached to the ceiling and there is exposed wiring. The only ceiling pendant lights that are working are those in the living room and the main bedroom. There is no working light in any of the bathroom, kitchen or rear bedroom or in the hallway.
- There are smoke detectors in the hall and the living room and a carbon monoxide monitor is located above the central heating boiler cupboard in the main bedroom.

Reasons for the decision

13. The Tribunal was of the view that the issues of damp and mould were probably linked to the fact that there was no functioning heating system in the Property. It appeared likely that a new central heating boiler would be required, as the gas engineer had advised the Tenant that the necessary parts were no longer available to enable repairs to be effected. The door to the balcony needs a new balancing and locking mechanism. The situation regarding the lighting and the boiler is such that the Tribunal will require to

see both a Gas Safety Certificate and an Electrical Installation Condition Report. Investigations need to be carried out to ensure the leak into the downstairs flat is detected and repaired. The Tribunal is of the view that the Property fails to meet the repairing standard and that a Repairing Standard Enforcement Order should, therefore, be made.

14. The Tribunal observed that there is a missing window catch in the left-hand window pane in the front living room and there are broken tiles in the flooring of the bathroom, which might cause injury to bare feet. These were not, however, included in the application, so cannot be included in the Order. The Tribunal would also expect the Landlord to fill the gap behind the toilet and to rectify any odour issues.
15. The Tribunal has provided a period of 5 weeks for the Landlord to carry out the work required by the Order, as she has a period of 30 days within which to appeal its Decision, but the Tribunal would urge the Landlord to initiate the repairs as soon as possible, given the Tenant and her family have no heating and no hot water and we are now in the winter months.
16. The decision of the tribunal was unanimous.

Right of Appeal

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.

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G Clark

Signed Legal Member/Chairperson
Date: 15 January 2019

*This is the Schedule of Photographs in regard to
the property Statement of G Clark of 15/1/19
at Tower/Claire*

Housing and Property Chamber

First-tier Tribunal for Scotland



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

SCHEDULE OF PHOTOGRAPHS

ADDRESS: Flat 2/2, 110 Lochdochart Road, Glasgow G34 0DF

DATE: 15th January 2019

REFERENCE: FTS/HPC/RP/18/2978



FRONT ELEVATION



REAR ELEVATION



MOULD/STAINING BEDROOM 2



DAMP READINGS – BEDROOM 2



“INTERMEDIATE” READINGS—BEDROOM 2



REDUNDANT VENT IN BED CPD



READINGS IN BEDROOM 1



READINGS IN BEDROOM



READINGS IN LIVING ROOM



READINGS IN LIVING ROOM



MISSING WINDOW HANDLE – LR



MOULD IN TILE GROUTING – BATHROOM



DAMP READING – PLINTH AT WC



CENTRAL HEATING BOILER



ELECTRIC SHOWER



LIGHT PENDANT-BED



KITCHEN LIGHT FITTING



DEFECTIVE LIGHT PENDANT



DEFECTIVE BATHRM LIGHTING



BALCONY DOOR HANDLE/LOCK



BROKEN FLOOR TILING IN BATHRM

MIKE LINKS

ORDINARY MEMBER (SURVEYOR)

HOUSING AND PROPERTY CHAMBER

DATE 15TH January 2019