



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

**STATEMENT OF DECISION**

**Housing (Scotland) Act 2006 Section 24(1) ('the Act')**

**Chamber Ref: FTS/HPC/RP/19/0263**

**Property at 1/1, 4 Houston Street, Renfrew, PA4 8NR**

**Land Register Title Number REN 59027**

**('The Property')**

**PARTIES:**

**Ms Mary Jo Walsh residing at Flat 1/1 4 Houston Street, Renfrew, PA4 8NR,  
Represented by Mrs Patricia Mary Rademan, Powerhouse for Life, Renfrew  
PA4 8HG**

**('the Tenant')**

**Mr Vincent John Bell and Mrs Karen Angela Bell, Wright Properties Scotland  
Ltd, Care of and Represented by Robb Residential, 150 St Vincent Street,  
Glasgow G2 5NE**

**('the Landlord')**

**TRIBUNAL MEMBERS:**

**Joseph C Hughes (Legal Member)**

**Sara Hesp (Ordinary Member/Surveyor)**

## **SUMMARY OF DECISION:**

1. 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 duty imposed by Section 14(1)(b) in relation to the Property, and taking into account the written documentation submitted by the parties and the parties' oral representations, determined the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act;
2. The Tribunal proceeded to make a Repairing Standard Enforcement Order ('RSEO') as required by Section 24(2) of the Act; and
3. The decision of the Tribunal was unanimous.

## **BACKGROUND:**

4. By Application received on 25<sup>th</sup> January 2019 ('the Application') the Tenant applied to the Tribunal in terms of Section 22(1) of the Act for a Determination as to whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act').
5. The Property has been let to the Tenant by a Short Assured Tenancy Agreement. A copy was lodged with the Tribunal. The tenancy commenced on 25<sup>th</sup> May 2017 with a Rent of £350 per calendar month.
6. The original Application by the Tenant stated that she considered that the Landlord had failed to comply with their duty to ensure that the Property meets the Repairing Standard.
7. The Tenant considered that the Landlord is in breach of their duty under the Housing (Scotland) Act 2006 in relation to the Repairing Standard and in particular the Landlord has failed to ensure compliance with the following paragraphs of Section 13(1) of the Act:
  - (a) The house is wind and watertight and in all other respects reasonably fit for human habitation;
  - (c) 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
  - (d) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.

8. The Application listed the issues which the Tenant considered to be outstanding. By reference to the Application and additional papers, the following issues were noted to be:

- (i) Living room windows to be made watertight;
- (ii) Hot water immersion heater to be repaired - control switch etc replaced;
- (iii) Left hand window-handle in kitchen to be replaced;
- (iv) Right hand window-handle in kitchen to be repaired;
- (v) Handle of kitchen oven to be replaced;
- (vi) Living room ceiling light to be repaired;
- (vii) Bathroom wall electrical panel heater to be replaced;
- (viii) Right mirror door wardrobe (in the bedroom) to be repaired;
- (ix) Bedroom door handle to be replaced.

9. By Minute dated 28<sup>th</sup> February 2019 the Convener of the Tribunal, with delegated powers under Section 96 of the Housing (Scotland) Act and Section 21(8A) of the Act, made a Decision to refer the Application to a Tribunal in terms of Section 23(1) of the Housing (Scotland) Act 2006.

10. On 11<sup>th</sup> March 2019 the President of the Tribunal intimated a Decision to refer the Application to a Tribunal for determination under Section 23(1) of the Act. The Tribunal served a Notice of Referral, Inspection and Hearing in terms of Paragraph 1 of Schedule 2 to the Act upon the Tenant and Landlord.

11. The Tribunal inspected the Property on 24<sup>th</sup> April 2019 at 10am with a Hearing at 11.30am within the Glasgow Tribunals Centre, 20 York Street, Glasgow. The Tenant and the Landlord lodged additional written representations/productions which the Tribunal noted carefully.

Mr Michael Colquhoun facilitated as Clerk to the Tribunal during the Inspection and the Hearing.

#### **THE INSPECTION AND SCHEDULE OF PHOTOGRAPHS:**

12. The Tribunal attended at the Property for the purposes of inspection as planned. The Tenant was present throughout the inspection. Her friend, Gail, attended as a supporter. The Landlord was not present at the Inspection. Access was granted throughout the Inspection. An internal and external inspection of the Property took place. We thank the Tenant for her cooperation throughout the Inspection.

13. The Property is a first floor flat of traditional construction. It is laid out to provide entrance hall, living-room, one bedroom, kitchen and bathroom.

14. The Tribunal inspected the property room by room to ensure that all the matters raised by the Tenant were noted. Some of the original issues are now resolved according to the Tenant. The conclusion of the Inspection is recorded within the Findings of Fact.

15. During the Inspection, the following was noted - (recorded in order listed at Paragraph 8 above):

- (a) The living room window is watertight. The Tenant was unaware of an upper window-handle located behind the blinds. This is no longer an issue for the Tenant;
- (b) The immersion heater was tested. There is now hot water provision. The central switch has been replaced with a new timer. This is no longer an issue for the Tenant;
- (c) The left and right hand window-handles in the kitchen are now functioning and in a good state of repair. This is no longer an issue for the Tenant;
- (d) The handle in the Indesit kitchen oven has been stuck on using glue/mastic. Whilst not perfect, it permits the oven door to open and close. It is now functioning;
- (e) The ceiling light in the living room has been replaced. A large number of holes have been made in the plasterwork on the ceiling and on the wall above the ceiling light wall switch. There is a significant open gap above the electric switch on the wall. This is potentially dangerous;
- (f) There is a new electric towel rail installed in the bathroom. The Tenant confirms this is working. This is no longer an issue for the Tenant;
- (g) Both doors in the bedroom wardrobe have been fitted and replaced. This is no longer an issue for the Tenant;
- (h) The bedroom door handle has been replaced. This is no longer an issue for the Tenant.

16. A Schedule of Photographs taken during the Inspection by the Ordinary Member is attached to this Statement of Decision and executed as relative hereto.

#### **THE HEARING:**

17. The Hearing took place at Glasgow Tribunals Centre. The Tenant did not attend. She was represented by Mrs Patricia Mary Rademan from Power House for Life, Renfrew who attended. The Landlord was not present but were represented by Mr Kenneth Robb and Ms Hannah Lough from Robb Residential, Glasgow. The Tribunal

had before it the Application and other documentation including the Land Certificate REN 59027 relative to the property which is registered in the name of the Landlord. The Tribunal had regard to all documentation lodged by both parties.

18. The Tribunal provided a summary of the Inspection to both parties' representatives as neither was present at the Inspection.

19. Both parties made oral submissions to support their position.

Mrs Rademan stated that the Tenant is highly vulnerable. She stated that the issues before the Tribunal had been previously intimated to the Landlords' representatives in December 2018 by Mr William Holmes, Environmental Health Officer, Renfrewshire Council. Mrs Rademan expressed disappointment about the delay in the Landlords carrying out the intimated repairs. Mrs Rademan also provided the Tribunal with a time line of repairs carried out. Mr Robb stated that there had been some difficulty at times in gaining access to the property for routine inspections or tradesmen. However, Mr Robb and Ms Lough both apologised for any stress the Tenant may have experienced.

20. The Tribunal had careful regard to the documentation lodged by the Landlord on 1<sup>st</sup> April 2019 in connection with the Electrical Installation Condition Report ('EICR') dated 22/11/16. This lists two C2 Items which are defined as 'Potentially Dangerous'. This requires immediate remedial action. Whilst additional paperwork has been lodged the original C2 items have not been shown to have been addressed with a clear updated Report.

21. The issue to be determined is whether the Property meets the Repairing Standard as laid down in Section 13 of the Act and whether the Landlord has complied with the duty imposed by Section 14(1)(b) of the Act.

#### **FINDINGS OF FACT:**

22. The tribunal finds the following facts to be established:

- (a) The Landlord is the registered owner of the Property;
- (b) A tenancy exists between the Tenant and the Landlord;
- (c) The Tenant took possession of the Property on 25<sup>th</sup> May 2017 with a rental of £350 per calendar month;
- (d) The living room window is watertight;
- (e) The Tenant now has hot water. A new timer switch has been fitted;

- (f) The left and right window-handles in the kitchen are now operational;
- (g) The original handle of the kitchen oven has been re-attached to the door and operates in a satisfactory manner;
- (h) The living room ceiling light has been replaced;
- (i) There are multiple holes in the plaster within the living room ceiling and on the wall where the ceiling light switch is located;
- (j) A new bathroom towel rail has been fitted within the bathroom. It is working;
- (k) Two new wooden doors on the bedroom wardrobe have been fitted;
- (l) The bedroom handle has been replaced;
- (m) The EICR dated November 2016 reveals two C2 items which are defined as 'potentially dangerous'. There is updated EICR paperwork lodged by the Landlord but the said C2 items are not recorded as having been resolved. The Landlord could provide no updated written information in respect of the C2 items; and
- (n) There is no gas to the property. The Property is fully electric.

**DECISION:**

23. The Tribunal was satisfied that some issues raised within the Application did not meet the Repairing Standard specified within Section 13 (1) (c) of the Act.

24. Because the Tribunal determined that the Landlord has failed to fully comply with the duty imposed by Section 14(1) (b) of the Act, it must require the Landlord to carry out the works necessary for meeting the Repairing Standard and have therefore issued an RSEO all in terms of Section 24(2) of the Act.

25. The Decision of the Tribunal was unanimous.

26. The Tribunal proceeded to make an RSEO as required by Section 24(1) of the Act.

The works specified within the RSEO must be carried out and completed within the period of 30 DAYS from the date of service of Notice of the RSEO.

**REASONS FOR DECISION:**

27. The Tribunal considers that the Landlord has had sufficient time to address their duty in respect of ensuring the Property meets the Repairing Standard.

28. The Tribunal considers that the Landlord has failed in their duty under Section 14(1)(b) of the Act and has not complied with the Repairing Standard in terms of Section 13(1)(c) of the Act. The Tribunal record that the Landlord is now seeking to have the plasterwork and electrical work carried out and is seeking to address the issues highlighted during the Inspection and within the RSEO.

**RIGHT OF APPEAL:**

29. A Landlord, Tenant or Third Party application aggrieved by the Decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the Decision was sent to them.

**EFFECT OF SECTION 63:**

30. Where an Appeal is made, the effect of the Decision and the Order is suspended until the Appeal is abandoned or finally determined.

Where the Appeal is abandoned or finally determined by confirming the Decision, the Decision and the Order will be treated as having effect from the day on which the Appeal is abandoned or so determined.

J Hughes



'Joseph Christopher Hughes'

Legal Member and Chair

Housing and Property Chamber

Dated 29th April 2019



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

**REPAIRING STANDARD ENFORCEMENT ORDER (RSEO)**

Housing (Scotland) Act 2006 Section 24(1) ('the Act')

Chamber Ref: FTS/HPC/RP/19/0263

Property at Flat 1/1, 4 Houston Street, Renfrew PA4 8NR

Land Register Title Number REN 59027

('the Property')

The Parties:

Ms Mary Jo Walsh, Flat 1/1, 4 Houston Street, Renfrew, PA4 8NR

('the Tenant')

Mr Vincent John Bell and Mrs Karen Angela Bell, Wright Properties Scotland Ltd, c/o Robb Residential, 150 St Vincent Street, Glasgow G2 5NE

('the Landlord')

Whereas in terms of their Decision dated 29<sup>th</sup> April 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') and in particular the Landlord has failed to ensure that the property meets the Repairing Standard with reference to the following provisions of section 13 (1) of the Act, as amended:-



(c) 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.

The Tribunal now requires the Landlord to carry out such work as is necessary for the purpose of ensuring that the Property 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 to:

a) Obtain and lodge with the Tribunal an updated Domestic Electrical Installation Condition Report ('EICR') summarising its suitability for continuing use as 'Satisfactory', with no C1 or C2 items reported. The EICR should be dated after this Order and it should be prepared by a suitability competent contractor accredited by one of SELECT, NAPIT or NICEIC; and

b) Fill, finish and make good the holes and channels in the ceiling and walls of the living room.

The Tribunal order that the works specified in this Order must be carried out and completed **WITHIN 30 DAYS** from the date of receipt of this Order.

A Landlord, Tenant or Third Party applicant aggrieved by the Decision of the Tribunal may seek permission to appeal from the First-tier on a point of law only 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 all in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the two preceding pages are executed by Joseph Christopher Hughes, Legal Member and Chairperson of the tribunal at Glasgow on 29<sup>th</sup> April 2019 in the presence of the undernoted witness :-

J Hughes

Ian McClelland

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Legal Member/Chair

Witness (Ian Mark McClelland, Solicitor)

Housing and Property Chamber

J C Hughes Solicitors

1028 Tollcross Road

Glasgow G32 8UW

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



**FTS/HPC/RP/19/0263**  
**Schedule of photographs taken during inspection of**  
**Flat 1/1, 4 Houston Street, Renfrew PA4 8NR**  
**on 24 April 2019 at 10 am**

Photograph 1:



*External front elevation*

29th APRIL 2019

This and the following  
three pages is the  
Schedule of photographs  
referred to in the Statement  
of Decision dated

29th APRIL 2019

J Hughes

(JOSEPH C. HUGHES)

Legal Member

(HPC)

***Living room***

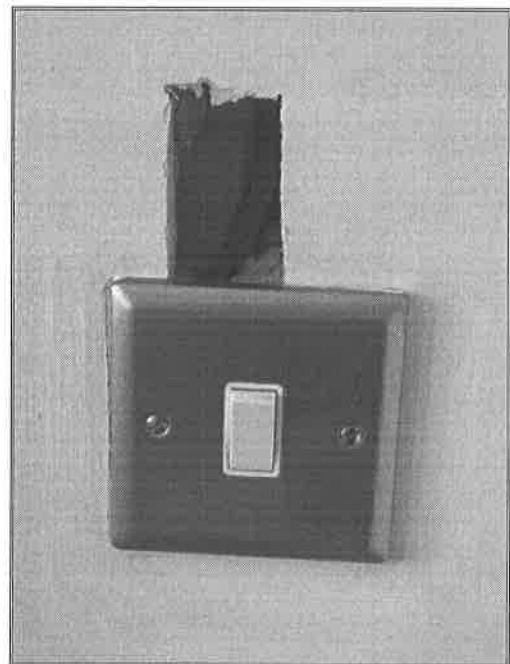
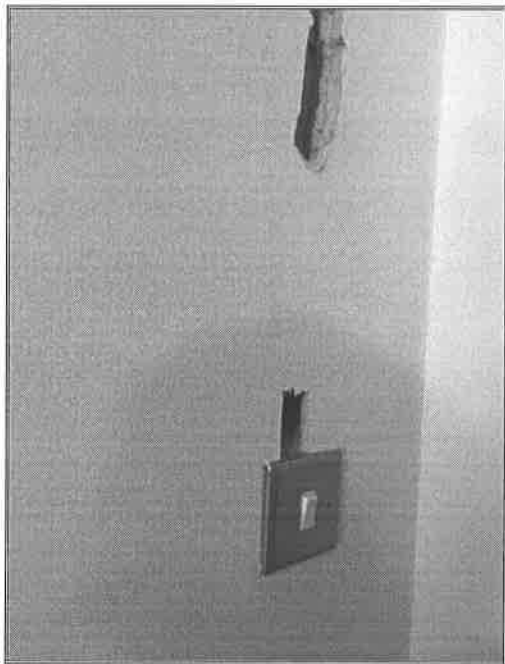


Photograph 2: Holes in ceiling and working pendant light

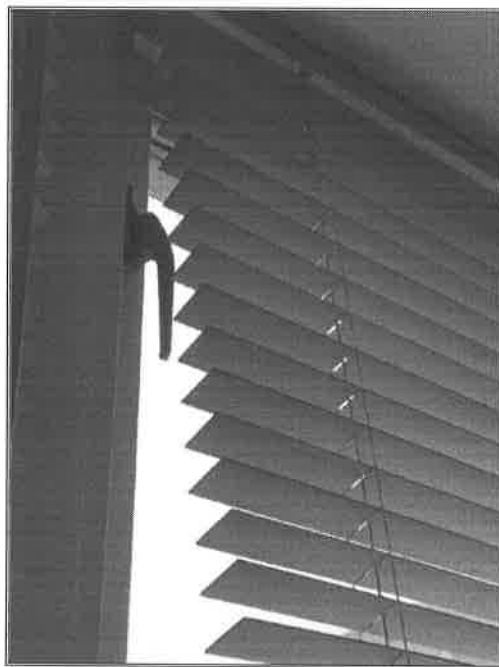


Photograph 3: Channels to ceiling and wall

*Living room*



Photographs 4 and 5: Channelling above light switch

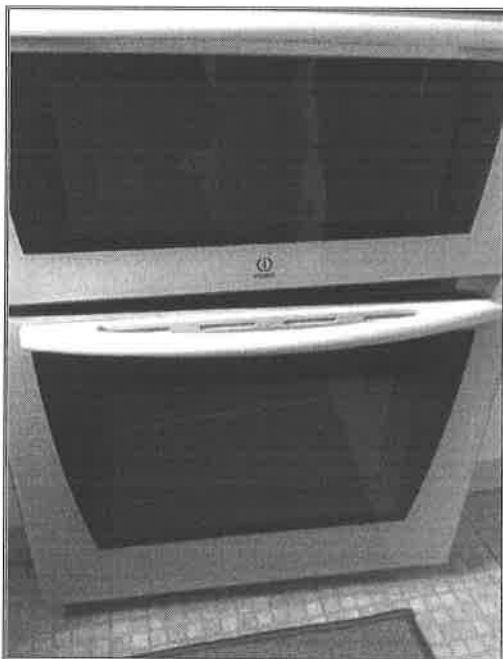


Photograph 6: Living room window: handle at high level

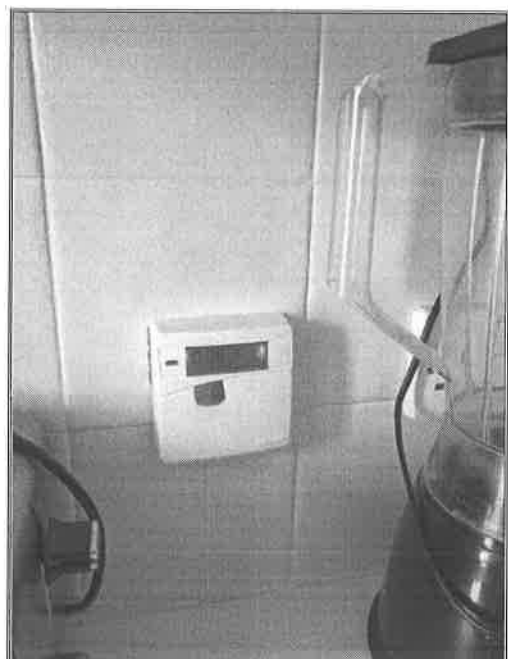
**Kitchen**



Photographs 7 and 8: replacement handles to kitchen windows



Photograph 9: oven door handle



Photograph 10: hot water control switch