

Housing and Property Chamber

First-tier Tribunal for Scotland



Repairing Standard Enforcement Order

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

Housing (Scotland) Act 2006 Section 24

Chamber Ref: FTS/HPC/RT/18/0767

Title no: GLA 77327

Flat 1 / 2, 118 Allison Street, Glasgow, G42 8ND ("the Property")

The Parties:-

Glasgow City Council ("Third Party Applicant"), Samaritan House, Third Floor, 79 Coplaw Street, Govanhill, Glasgow, G42 7JG.

Mr Muhammad Aslam and Mrs Robina Bibi ("The Former Tenants"), current address unknown.

Mr Ishtiaq Khan, c/o of his agent father Mr Mohammed Aslam ("The Landlord"), 54 Dolphin Road, Glasgow, G41 4DY

Whereas in terms of their decision dated 5th September 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") and in particular that the Landlord has failed to ensure that :-

- (i) The house is wind and water tight and in all other respects reasonably fit for human habitation; and
- (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; and
- (iii) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order
- (iv) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire; and
- (v) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

the Tribunal now orders the Landlord to carry out such works as are necessary for the purpose of ensuring that the Property meets the Repairing Standard, and, in particular, the Tribunal orders the Landlord:-

- (a) To carry out maintenance works, namely to strip, treat, seal and paint the window frames in the lounge and three bedrooms in the Property to ensure that the Property is wind and water tight and in all other respects reasonably fit for human habitation in terms of Section 13(1)(a) of the Act; and
- (b) To repair or renew the heat detector and extractor fan in the kitchen in the Property to ensure that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and for heating water are in a reasonable state of repair and in proper working order and that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire in terms of Sections 13(1)(c) and 13(1)(f) of the Act; and
- (c) To repair or renew the window handles which are missing in the windows in the three bedrooms in the Property, being the handle in the first, larger bedroom to the right rear of the Property, both window handles in the second bedroom to the right rear of the property and the handle in the bedroom on the left, front of the Property, to ensure that any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(d) of the Act; and
- (d) To repair or renew the smoke detectors in the three bedrooms in the Property, being the two bedrooms to the right, rear, and the bedroom to the left, front of the Property, to ensure that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire in terms of Section 13(1)(f) of the Act; and
- (e) To install a carbon monoxide monitor within the Property to ensure that the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health in terms of Section 13(1)(g) of the Act.

The Tribunal order that the works and actions specified in this Order must be carried out and completed within the period of **twelve weeks (eighty four days)** from the date of service of this Order upon the Landlord.

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, typewritten on this and the two preceding pages, are executed by Gerald McWilliams, Solicitor, Legal Member of the Tribunal, at Glasgow on 5th September 2018, before this witness:-

C Cassidy

Carol Cassidy Witness

G McWilliams

G McWilliams Legal Member

Housing and Property Chamber

First-tier Tribunal for Scotland



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The Parties:-

**Glasgow City Council ("Third Party Applicant"), Samaritan House,
Third Floor, 79 Coplaw Street, Govanhill, Glasgow, G42 7JG.**

**Mr Muhammad Aslam and Mrs Robina Bibi ("the former Tenants"),
whose current address is unknown.**

**Mr Ishtiaq Khan, c/o Mr Mohammed Aslam ("the Landlord"), 54 Dolphin
Road, Glasgow, G41 4DY**

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 or not the Landlord has complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 as amended ("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 comprised:-

**Mr G. McWilliams, Legal Member; and
Ms L Charles, Ordinary Member**

Background

1. By Application, received by the Tribunal on 4th April 2018, the Third Party Applicant applied to the Tribunal for a determination of whether or not the Landlord has failed to comply with the duties imposed by Second 14 (1) (b) of the Act.
2. In the Application the Third Party stated that the Landlord has failed to comply with his duties to ensure that the property meets the repairing standard. The Third Party Applicant stated that the house is not wind and watertight and in all other respects reasonably fit for human habitation and 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. The Third Party complained that any fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and not in proper working order, that any furnishings provided by the Landlord under the tenancy are not capable of being used safely for the purpose for which they are designed and that the house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. In the Application the Third Party Applicant specifically stated that there is no carbon monoxide monitor in the property and that it was unknown whether or not newly fitted smoke detectors were hard wired. They stated that there are no smoke/heat detectors in the kitchen and no smoke detector in the lounge. They further stated that there is no kitchen ventilation, as the kitchen extractor fan does not work. In addition the Third Party Applicant stated that the lounge window sill is rotten and the windows throughout the property require maintenance as there is rotten and flaking paint. They further stated that there are missing window handles.
4. The Tenants left the Property around 22nd August 2018 and, from then, were no longer participating parties in these proceedings.
5. The Tribunal comprised G. McWilliams, Legal Member, and L Charles, Ordinary Member. The Tribunal served Notice of Referral, under and in terms of Schedule 2, Paragraph 1 of the Act, upon the Landlord on 17th May 2018.
6. The Tribunal Members attended at the property on 30th August 2018 for an Inspection. The Tribunal members were given access to the Property through the Landlord's representative, his father Mr Mohammed Aslam.
7. Following the Inspection of the Property the Tribunal held a Hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT, also on 30th August 2018. The Third Party Applicant and the Landlord did not attend the Hearing. The Landlord's representative, his father Mr Mohammed Aslam, attended at the Hearing.

Findings on Inspection- see attached Photographs Schedule

8.

- (i) There is a hardwired interlinked smoke detector fitted in the hallway in the Property;
- (ii) There is a hardwired interlinked smoke detector fitted in the lounge within the Property;
- (iii) There is no heat detector fitted in the kitchen of the Property. The extractor fan and light in the kitchen are not working. The pull cord switch for both is not working;
- (iv) The left side window frame, looking from within the lounge, requires maintenance. It requires to be stripped, treated, sealed and painted. The right side window frame in the lounge requires similar maintenance.
- (v) The window in the first, larger bedroom, on the right side to the rear of the Property, has no handle. The window frame there requires maintenance. It requires to be stripped, treated, sealed and painted.
- (vi) There is a smoke detector base in the first, larger bedroom on the right side to the rear of the property. There is no smoke detector unit attached.
- (vii) In the second bedroom on the right to the rear of the Property there is a smoke detector base but no smoke detector unit attached.
- (viii) In the second bedroom on the right to the rear of the Property both handles are missing from the window frame. The window frame requires maintenance. It requires to be stripped, treated, sealed and painted.
- (ix) In the bedroom on the left, to the front, of the Property, there is a hardwired interlinked smoke detector.
- (x) In the bedroom on the left, to the front, of the Property the right side window handle (as you look at the window from the room) is missing. The left sided handle is present.
- (xi) The window frame in the bedroom on the left, to the front, of the Property requires maintenance. It requires to be stripped, treated, sealed and painted.
- (xii) There is no carbon monoxide monitor within the Property.

Observations

9. The Tribunal observed that the left side window glass unit in the lounge of the Property is broken in two places. Whilst not part of the Application suitable repairs will have to be carried out. Three fire detection units

were lying on the floor within the hallway at the Property. Mr Aslam stated that these were to be fitted to the base units referred to above.

The Schedule

10. A Schedule of internal and external photographs of the Property, taken at the Inspection, is attached to this Decision.

The Repairing Standard

11. The Repairing Standard is set out in Section 13 of the Act:

A house meets the Repairing Standard if:-

- (a) The house is wind and watertight and in all other respects reasonably fit for human habitation,
- (b) 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,
- (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,
- (d) Any fixtures, fittings and appliances provided by the Landlord under the Tenancy are in a reasonable state of repair and in proper working order,
- (e) Any furnishings provided by the Landlord under the Tenancy are capable of being used safely for the purpose for which they are designed,
- (f) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire,
- (g) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

The Hearing

12. At the Hearing Mr Aslam acknowledged that the windows in the lounge and three bedrooms required maintenance. He also acknowledged that there were handles missing from the windows in the three bedrooms. He accepted that there was no carbon monoxide monitor in the Property. He further accepted that there were no smoke detector units attached to the base units in the bedrooms to rear of the Property. He also acknowledged that the extractor fan and heat detector within the kitchen were not working. Mr Aslam explained that he and his son, the Landlord, had difficulty in getting access to the Property for the purpose of carrying

out repairs.. He stated that the tenants had refused access to the Property on various occasions. He further stated that he did not wish to create tension with the tenants, in particular as he has a heart condition. Mr Aslam provided an Electrical Installation Condition Report ("EICR") dated 18th April 2018 and a Gas Safety Check Report, dated 29th August 2018. Mr Aslam also provided a letter from Cunningham Lindsey, UK, dated 8th August 2018, which referred to a quotation that had been received from Drennans Glazing in respect of maintenance work to be carried out to the windows. He stated that he hoped that the maintenance work would be done in the next week or so. Mr Aslam further stated that his son, the Landlord, intended to carry out all the necessary works, identified at the Inspection and discussed at the Hearing, in early course. He stated that the his son, the Landlord, was going to return to reside in the Property, failing which the Property would be sold. Mr Aslam co-operated with the Tribunal throughout the Inspection and Hearing.

Findings in Fact

13. The Property is a flatted home on the first floor of a tenement Property in Glasgow, located around 2.5 miles south of Glasgow City Centre. The Property comprises an entrance hall, lounge, kitchen, bathroom and three bedrooms.
14. There is no carbon monoxide monitor within the Property. There are hardwired interlinked smoke detectors present in the hallway, lounge and third bedroom, to the left at the front of the Property. There are smoke detector base units, but no smoke detector units, within the two bedrooms to the right, rear of the Property. The heat detector and extractor fan in the kitchen are not working. The pull cord switch for them does not work. The window frames in the lounge, the two bedrooms to the right, rear of the Property and the bedroom to the left front of the Property require maintenance. They require to be stripped, treated, sealed and painted. In the first, larger bedroom to the right rear of the Property, there is one window handle missing. In the second bedroom to the right rear of the property, both window handles are missing. In the bedroom on the left, front of the Property there is one window handle missing.
15. A Gas Safety Certificate, confirming that there is no carbon monoxide monitor in the Property, dated 29th August 2018, was produced at the Hearing by Mr Aslam. The Gas Safety Certificate was otherwise in satisfactory terms.
16. An EICR, dated 18th April 2018, was also produced by Mr Aslam at the Hearing. It is in satisfactory terms.

Reasons for Decision

17. The Tribunal made its findings and determination based upon what it noted at the Inspection, after considering the documents and case papers and after hearing evidence from Mr Aslam at the Hearing. The windows within the lounge and bedrooms in the Property require maintenance. The house is not wind and water tight and reasonably fit for human cohabitation at present. There are handles missing on the window units in the three bedrooms in the Property. The fixtures, fittings and appliances provided by the Landlord under the tenancy are therefore not in a reasonable state of repair and in proper working order at present. The heat detector and extractor fan in the kitchen are not working. Therefore 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 not in proper working order in this respect. Further the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire at the present time. There is no carbon monoxide monitor in the Property. The house therefore does not have satisfactory provisions for giving warning if carbon monoxide is present in a concentration that is hazardous to health. Accordingly, having considered all the evidence, the Tribunal finds, on a balance of probabilities, that the Property is below the Repairing Standard in terms of the Act. Given its findings the Tribunal consider that it is appropriate to make a Repairing Standard Enforcement Order ("RSEO") and have proceeded to make such an Order. The Tribunal consider that it is reasonable for the Landlord to be given twelve weeks (84 days) for the works and actions referred to below to be completed.

Decision

18. The Tribunal accordingly determined that the Landlord has failed to comply with the duties imposed by Section 14 (1)(b) of the Act, as stated.
19. The Tribunal proceeded to make an RSEO as required by Sections 24(1) and 24(2) of the Act in the following terms, requiring the Landlord:-
- (a) To carry out maintenance works, namely to strip, treat, seal and paint the window frames in the lounge and three bedrooms in the Property to ensure that the Property is wind and water tight and in all other respects reasonably fit for human habitation in terms of Section 13(1)(a) of the Act; and
 - (b) To repair or renew the heat detector and extractor fan in the kitchen in the Property to ensure that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and for heating water are in a reasonable state of repair and in proper working order and that the Property has satisfactory provision

for detecting fires and for giving warning in the event of fire or suspected fire in terms of Sections 13(1)(c) and 13(1)(f) of the Act; and

- (c) To repair or renew the window handles which are missing in the windows in the three bedrooms in the Property, being the handle in the first, larger bedroom to the right rear of the Property, both window handles in the second bedroom to the right rear of the property and the handle in the bedroom on the left, front of the Property, to ensure that any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(d) of the Act; and
- (d) To repair or renew the smoke detectors in the three bedrooms in the Property, being the two bedrooms to the right, rear, and the bedroom to the left, front of the Property, to ensure that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire in terms of Section 13(1)(f) of the Act; and
- (e) To install a carbon monoxide monitor within the Property to ensure that the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health in terms of Section 13(1)(g) of the Act.

20. In view of the nature of the failure to meet the Repairing Standard, as defined in the Act, the Tribunal determined that the RSEO requires to be complied with within **twelve weeks (eighty four days)** from the date of service of the RSEO upon the Landlord.

21. The decision of the Tribunal is unanimous.

Further Observation

22. The EICR is dated 18th April 2018, over four months prior to the date of the Inspection and Hearing.. The light in the kitchen is not working and the socket is exposed. It is recommended that when electrical works are being carried out to comply with the RSEO the condition of the electrical installation at the Property is again checked and any necessary further repair works carried out, in particular in respect of the lighting provision in the kitchen, to ensure that 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.

Right of Appeal.

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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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.

G McWilliams

Signed:

Date 5th September 2018

G. McWilliams, Legal Member

Housing and Property Chamber First-tier Tribunal for Scotland



Schedule of Photographs



Flat 1-2 118 Allison Street, Glasgow G42 8ND

FTS/HPC/RP/18/0767

Inspection date – 30 August 2018

Weather – Dry and Sunny

Hall and Lounge



Hardwired smoke detectors fitted to hall and lounge

Kitchen



Heat detector base fitted to ceiling but no heat detector unit connected.

Extractor fan is fitted to kitchen ceil however pull cord switch is broken therefore fan did not work. No working light in kitchen

Lounge



Timber frame and sill no rot detected however woodwork requires to be striped, sealed and painted



Broken window pane



Window handle missing

Bedroom 1 right



1 Window handle missing



Hardwired Smoke detector base fitted No
Smoke detector attached

Bedroom 2 right



2 Window handles missing



Hardwired Smoke detector base fitted No
Smoke detector attached

Bedroom 1 left



1 Window handle missing



Hardwired Smoke detector fitted

A gas safety certificate was presented at the hearing

An electrical installation certificate was presented at the hearing

Observations



The light sockets to the kitchen require to be tested by a qualified electrician and amended accordingly

All windows frames require to be striped, treated and painted.