

# Housing and Property Chamber First-tier Tribunal for Scotland



## Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 24(1) of the Housing (Scotland) Act 2006

### Housing (Scotland) Act 2006 Section 24(1)

Chamber Ref: FTS/HPC/RT/19/0942

Title no/Sasines Description: ANG49875

Property Address: 14 Dundonald Street, Dundee DD3 7PW (“the house”)

The Parties: Rhys Price, 52 Forres Crescent, Dundee DD3 0ER (“the landlord”)

Alistair Ramsay, 14 Dundonald Street, Dundee DD3 7BW (“the tenant”) represented by Lynn Robertson, Positive Steps, Dundee (“the third party applicant”)

Stuart Cuthill, City of Dundee Council, Neighbourhood Services, 3 City Square, Dundee DD3 3BA

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”).

The Tribunal comprised:

- (a) Mark Thorley – Legal Member
- (b) Angus Anderson – Ordinary Member

The Tribunal having made such enquiries as is fit for the purposes of determining whether the landlord has complied with the duties imposed upon him by Section 14(1)(b) in relation to the property concerned, and taking account of the evidence presented and the written and oral representations, unanimously determined that the landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as “the Act”) and accordingly made a Repairing Standard Enforcement Order (“RSEO”) as required by Section 24(2) of the 2006 Act.

### Background

1. By application dated 21 March 2019 a third party applicant namely Dundee City Council, Private Sector Services Unit made an application for a determination of whether the landlord has failed to comply with duties imposed upon him under Section 14(1)(b) of the Housing (Scotland) Act 2006.

2. The application by the third party narrates that the landlord has failed to maintain the property and has failed to comply with his duties to ensure the house meets the repairing standard and in particular that the landlord has failed to ensure compliance with Section 13(1)(a), (b), (c), (d), (e) and (f) of the Act. The third party complaint is set out as follows:
  - (a) The level of fire protection does not meet the current standards;
  - (b) There is no Electrical Installation Condition Report;
  - (c) There is no hot water available in the property;
  - (d) The window in the bedroom does not open;
  - (e) The ceiling in the bedroom has been poorly repaired;
  - (f) The bathroom floor shows signs of dampness;
  - (g) The bathroom floor has no covering;
  - (h) The bathroom fan does not work;
  - (i) The hall ceiling has large holes in it;
  - (j) The door to the top half of the hall cupboard is missing;
  - (k) There are signs of dampness on the wall between the bedroom and the hall cupboard;
  - (l) The oven door is broken;
  - (m) A number of the cooker rings do not work;
  - (n) The front door is not wind and waterproof;
  - (o) The property requires to be redecorated;
  - (p) The carpets in the property require to be cleaned or replaced;
  - (q) The front façade of the building requires maintenance;
  - (r) The east end of the gable property has a large area of harling missing exposing brick and woodwork;
  - (s) The guttering shows signs of vegetation growing in it;
3. The tenant's most recent lease dates to 10 January 2014.

### **Summary of Issues**

The issue is whether the house meets the repairing standard as set out in Section 13(1) of the Act and whether the landlords have complied with the duties imposed by Section 14(1)(b) of the Act.

### **The Inspection**

1. The Tribunal members attended the property on the morning of 4th June 2019. The Tenant was present and allowed access. The tenant's representative, Lynn Robertson of Positive Steps was present. The Third Party Applicant were represented by Stuart Cuthill. The landlords were not present or represented. It was warm and dry during the inspection. Weather conditions in the week preceding the inspection had been warm with periods of wet weather.
2. The property is located in an urban setting, around half a mile north of Dundee city centre. It is a self-contained flat, occupying part of the ground floor of a four storey tenement built upwards of 100 years ago. The flat has its own main

door directly on to the street. The property appears to have been altered and upgraded around 35 years ago. The main outer walls are of stone, with the gable formed in rendered masonry; the roof is pitched and slated. Accommodation comprises:

Ground Floor - entrance vestibule, lounge with kitchen area on open plan, inner hall, bedroom, bathroom with WC. The property has aluminium framed, double glazed windows and electric panel heaters for space heating.

3. The property was occupied and furnished, with floor coverings in place in most apartments.
4. The lounge/kitchen was inspected first. The built-in hob was found to be marked and soiled. The tenant stated that it did not work and that he used the microwave for cooking. There is a built under oven and it could be seen that the outer door of the double skinned door was missing. There was no heat or smoke detection within the lounge/kitchen. The electrical outlet for the panel heater was loose and the panel heater discoloured and scorched. The floor coverings were seen to be soiled.
5. The vestibule was inspected. The tenant stated that the wall suffered from dampness. The area was checked using a Protimeter moisture meter. The readings were found to be normal, in the green or amber range (below 20%). The tenant demonstrated that the main deadlock could only be moved with the key in the outside of the door, so the door could not be properly secured from inside the flat, other than by way of the cylinder lock. Daylight could be seen around the door frame and at the keyhole, indicating that the door was not draught proofed. There was some damage to the wall linings from impact from the door or handle. An external inspection of the door confirmed that there was no draught excluder fitted. The electrical consumer unit is located at a high level in the vestibule. Close inspection was not possible, on account of its height. There was no visible label to confirm the latest test/inspection date.
6. The inner hallway was inspected. There was a small hole in the ceiling which appeared to be due to water ingress from above. The wallpaper had pealed and was missing to part of the ceiling. The smoke alarm was hanging down, suspended by the power cable. The hatch or cover to the upper section of the airing cupboard was missing. Inside the airing cupboard, the mains supply flex to the immersion heater was disconnected, with bare wires showing and the cover to the immersion heater had been removed. There was mould staining to the side and rear of the cupboard. When tested with the moisture meter, these areas were found to have normal moisture content. The shelf supporting the hot water cylinder was bowed, apparently as a result of previous leakage causing the chipboard to weaken.
7. The bedroom was inspected. It could be seen that the external security screen would prevent the window opening fully and consequently, it would not be possible to escape from the flat via the window in the event of an emergency and it would not be possible to more routinely, clean the outside of the window. The blocks to the window catches were missing or damaged and one handle was missing, which meant the window would not be held closed to

prevent draughts. The ceiling rose was seen to be loose, with a gap between it and the ceiling. There were two roughly fixed sections of plasterboard affixed to the ceiling, apparently as patch repairs.

8. The bathroom was then inspected. The chipboard floor was fully exposed, there being no floorcoverings in place. The joints to the flooring had opened up and the surface of the chipboard was rough, indicating that the floor had been wet or damp for a period. However, when tested with the moisture meter, the flooring was found to have normal levels of moisture. The flooring was found to be reasonably firm underfoot. It was found that the extractor fan did not operate when the light was switched on and there was no other visible switch.
9. The exterior of the building was then inspected. It could be seen that the security screens fitted to the lounge/kitchen and bedroom windows could not be removed or opened easily from the outside, or from within the flat with the windows opened. The terminal to the bathroom extractor duct was missing. The pointing to the stonework around the front elevation of the flat was seen to be weathered with some areas missing and there were cracks to the concrete areas. A vertical crack was seen close to the junction of the gable and front elevation, running from ground level to around the second floor level. There are some areas of missing render, with exposed brickwork and timber lintels visible. Vegetation growth was seen to the masonry at the gable and front elevation.
10. During the inspection photographs were taken by the Tribunal and a schedule of photographs is attached to this decision.
11. The inspection was concluded and the Tribunal travelled to the venue for the hearing.

### **The hearing**

The hearing took place at Hilltown Community Centre, 15 Alexander Street, Dundee DD3 7UN on 4 June 2019. The tenant was not present. The tenant's representative, Lynn Robertson of Positive Steps was present as was the third party applicant represented by Stuart Cuthill. The landlord was not present or represented.

At the hearing the parties confirmed that the defects were self-evident from the inspection and had little further information to add.

### **Findings in Fact**

1. Reference is made to the Tribunal's findings at the inspection.
2. The tenant occupies the house under a short assured tenancy dated 10 January 2014 which continues.
3. A significant amount of work requires to be undertaken to the property.

### Reasons for decision

1. The Tribunal considered the issues of disrepair set out in the application and noted at the time of the inspection.
2. The Tribunal was not satisfied that the house met the requirements of Section 13(1)(a), (b), (c), (d), (e) or (f) of the Act.
3. There is a significant amount of work to be undertaken to the property in relation to the following:-
  - (i) The oven and hob needs to be either replaced or repaired. The cooker rings do not work. The oven door is broken.
  - (ii) There was no heat or smoke detection within the lounge/kitchen.
  - (iii) The floor coverings throughout were seen to be soiled.
  - (iv) The front door is not wind and waterproof. The main deadlock to the door could only be moved with a key on the outside of the door so the door could not be properly secured from inside the flat other than by way of cylinder lock. There was damage to the wall linings from impact from the door handle. There was no draught excluder fitted.
  - (v) There was a small hole in the ceiling in the inner hallway which appeared to be the result of water ingress. The wallpaper had peeled down and was missing to part of the ceiling.
  - (vi) The smoke alarm in the inner hall was hanging down suspended by the power cable.
  - (vii) The hatch or cover to the upper section of the airing cupboard in the inner hallway was missing.
  - (viii) Inside the airing cupboard the main supply flex to the immersion heater was disconnected with bare wires showing and the cover to the immersion heater had been removed. There is no hot water as a result of this.
  - (ix) In the bedroom the external security screen prevents the window opening fully. The blocks to the window catches were missing or damaged and one handle was missing.
  - (x) In the bedroom the ceiling rose was seen to be loose with a gap between it and the ceiling. There were two roughly fixed sections of plasterboard affixed to the ceiling apparently as patched repairs.
  - (xi) In the bathroom there was no floor covering. The extractor fan did not operate.
  - (xii) In the exterior of the building at the rear the terminal to the bathroom extractor duct was missing.
  - (xiii) The pointing to the stonework around the front elevation of the flat was seen to be weathered with some areas missing and there were cracks to the concrete areas. A vertical crack was seen close to the junction of the gable and front elevation running from ground level to around the second floor level. There are some areas of missing render which expose brickwork and timber lintels. Vegetation growth was seen to the masonry at the gable and front elevation.



(xiv) Throughout the inspection there was aspects of the electrical installation which gave cause for concern, such as the bare electrical conductors at the airing cupboard, various loose fittings, the defective hob and extractor fan and lack of evidence of recent electric testing.

4. The Tribunal is of the view that it requires to make a Repairing Standard Enforcement Order (RSEO) in respect of the outstanding matters specified. Given the nature of the required repairs the Tribunal is of the view that a period of eight weeks from the service of the RSEO is an adequate and reasonable timescale for all the repairs to be completed.

### **Decision**

1. The Tribunal accordingly determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act
2. The Tribunal proceed to make a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.

### **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.**

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.

M Thorley

Signed

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Chairperson

Date

..... 18 June 2019 .....

# 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/RT/19/0942

Title no/Sasines Description: ANG49875

Property Address: 14 Dundonald Street, Dundee DD3 7PW (“the house”)

The Parties: Rhys Price, 52 Forres Crescent, Dundee DD3 0ER (“the landlord”)

Alistair Ramsay, 14 Dundonald Street, Dundee DD3 7BW (“the tenant”) represented by Lynn Robertson, Positive Steps, Dundee (“the third party applicant”)

Stuart Cuthill, City of Dundee Council, Neighbourhood Services, 3 City Square, Dundee DD3 3BA

Whereas in terms of their decision dated 14 June 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 that the landlord has failed to ensure that the house meets the repairing standard with reference to the following provisions under Section 13 of the Act (as amended):-

- (a) The house is wind and watertight and all other respects reasonably fit for human habitation.
- (b) The structure and exterior of the house (including drains, gutters and external pipes) are all in a reasonable state of repair and in proper working order.
- (c) The installation to 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 purposes of 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.

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 repair or replace the hob to ensure that it is working order and to ensure that there is an outer door on the build-under oven.
- (2) To ensure the provision of heat and smoke detection within the lounge/kitchen interlinked with the inner hall smoke alarm.
- (3) To replace the floor coverings throughout the property to render it reasonably fit for human habitation.
- (4) To ensure that the entry door to the property is secure and draught proof and fits into a doorframe and that the main deadlock can be secured from within the property.
- (5) To repair the hole in the ceiling which appears in the inner hallway and redecorate.
- (6) To replace and properly attach the smoke alarm within the hallway and to ensure that it is in working order.
- (7) To fit a hatch or cover the upper section of the airing cupboard.
- (8) To ensure that the hot water cylinder is in working order.
- (9) To repair or replace the bedroom window to ensure that it is capable of being open and closed properly and in all respects in proper working order. Further to ensure that the external security screen is capable of being opened from within the property to allow the window to be opened fully in the event of an emergency.
- (10) To re-attach the ceiling rose to the ceiling of the property.
- (11) To properly replace the sections of plasterboard affixed to the ceiling from being patch repairs.
- (12) To ensure that the extractor fan within the bathroom operates.
- (13) To point the stonework around the front elevation of the flat and to deal with the cracks close to the junction of the gable and front elevation.
- (14) To replace missing render with exposed brickwork and timber lintels visible to the east side of the building.
- (15) To remove vegetation growth to the masonry at the gable and front elevation.
- (16) To arrange for a check of the electrical apparatus within the property and to provide a copy of the Electrical Installation Condition Report confirming that the installation is "satisfactory" with no C1 or C2 defects.

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.

**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.**

M Thorley

Signed \_\_\_\_\_

Dated \_\_\_\_\_

18 June 2019

# Housing and Property Chamber First-tier Tribunal for Scotland

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Housing (Scotland) Act 2006

14 Dundonald Street, Dundee, DD3 7PW

Chamber Reference : FTS/HPC/RT/19/0942

Initial Inspection : Schedule of Photographs

Inspection Date: 04/06/2019



Figure 1 Front Elevation



Figure 2 Inside face of front door.



Figure 3 Consumer unit.



Figure 4 Oven and hob.



Figure 5 Lounge/kitchen heater.



Figure 6 Inner hall ceiling



Figure 7- Inner hall ceiling - smoke alarm.





Figure 8- Airing cupboard/immersion heater.



Figure 9 Mould to walls, airing cupboard.



Figure 10 Bedroom overview - loose ceiling rose, patched ceiling.



Figure 11 Bedroom window.



Figure 12 Bathroom overview.



Figure 13 Bathroom floor and meter reading.



Figure 14 Bathroom floor and meter reading.



Figure 15 Front window.



Figure 16 Rear window and bathroom vent.



Figure 17 Gable elevation.