

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 25(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/18/2946

Title no: REN89837

29B Orchard Street, Renfrew, PA4 8RJ being the subjects registered in the Land Register of Scotland under Title Number REN89837 ('The Property')

The Parties:-

Claire Wales or Morrison residing formerly at Flat 2/2, 2327 Dumbarton Road, Glasgow, G14 0NL and now at Flat 2/2, 4 Ashton Gate, Lenzie, G66 3ET ('the Landlord').

Nicola Delaney residing at 29B Orchard Street, Renfrew ('the Tenant').

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Nick Allan (Ordinary Member).

Background

1. The Tribunal issued a Repairing Standard Enforcement Order dated 24th January 2019 ('RSEO') in respect of the Property which required the Landlord to:-

1. *'Repair the dampness at the following locations in the Property to render the Property water tight:*

1.1 Living Room - *The internal wall between the Living room and the bedroom which was found to be saturated with dampness to a height of approximately 0.4 metres at the corner near to the bay window.*

1.2 Bathroom - *The party wall of the bathroom behind the whb + wc which was found to be saturated with dampness to a height of approximately 1.5 metres. The section of reinforced beam above and facing the bath which was also found to be saturated with dampness*

1.3 Dining/Kitchen -

- a) *The lower right hand side of the cupboard housing the boiler;*
- b) *The corner section of the party wall to the right of the old fireplace, and the section of the dividing wall between the dining/kitchen and*

- bathroom above the new plasterwork at a height of approximately 1.5 metres;*
- c) *The wall section immediately to the right of the doorway into the utility room.*

1.4 Hall Cupboard - *The internal wall between the hallway cupboard and the close to a height of approximately 1.5 metres.*

2. *Repair the broken double socket in the kitchen to render it in proper working order.*
 3. *Make secure any loose sections of the kitchen flooring.'*
2. The Tribunal ordered that the works specified in the RSEO must be carried out and completed by 15th March 2019.
 3. The Landlord provided the Tribunal with a copy of the Report by Peter Cox dated 6th February 2019 which is annexed and executed as relative hereto. The report concluded that *'There was no evidence of any internal defects related to rainwater ingress, rising or penetrating dampness. The moisture readings on the internal walls are the result of condensation.'*

4. Inspection

On 16th May 2019 the Tribunal carried out an inspection of the Property for the purpose of ascertaining whether the outstanding repairs required by the RSEO had been completed. The Tenant, Catriona Phillips, the Tenant's advocacy worker, the Landlord and the Landlord's representatives Robert Nixon and Craig Weir, Director and Property Manager respectively of Rite Homes Property Management, were present at the reinspection. The reinspection report dated 28th May 2019 and relative photographs taken at the reinspection are annexed and executed as relative hereto.

5. Hearing

Following the inspection of the Property the Tribunal held a hearing at The Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT.

The Landlord did not attend the hearing. The Tenant, Catriona Phillips, the Tenant's advocacy worker and Irene Carson, the Tenant's mother, Robert Nixon and Craig Weir, the Landlord's representatives attended the hearing.

In respect of the repairs required by the RSEO the Tenant and the Landlord's representatives advised as follows:

1. *Repair the dampness at the following locations in the Property to render the Property water tight:*

1.1 Living Room - *The internal wall between the Living room and the bedroom which was found to be saturated with dampness to a height of approximately 0.4 metres at the corner near to the bay window.*

1.2 Bathroom - The party wall of the bathroom behind the whb + wc which was found to be saturated with dampness to a height of approximately 1.5 metres. The section of reinforced beam above and facing the bath which was also found to be saturated with dampness

1.3 Dining/Kitchen -

- a) The lower right hand side of the cupboard housing the boiler;
- b) The corner section of the party wall to the right of the old fireplace, and the section of the dividing wall between the dining/kitchen and bathroom above the new plasterwork at a height of approximately 1.5 metres;
- c) The wall section immediately to the right of the doorway into the utility room.

1.4 Hall Cupboard - The internal wall between the hallway cupboard and the close to a height of approximately 1.5 metres.

Robert Nixon advised that the Landlord had relied on the professional report that had been prepared by Peter Cox dated 6th February 2019 which had stated that the dampness in the Property was caused by condensation and no remedial works were required.

Nicola Delaney advised that the Property is heated morning and at night and the windows are regularly opened to provide ventilation. She explained that she could no longer hang coats or store items in the hall cupboard due to the dampness as they would be damaged. She did not agree with the claim that the dampness was caused by condensation.

2. Repair the broken double socket in the kitchen to render it in proper working order.

Nicola Delaney advised that the socket is in working order.

Robert Nixon explained that as far as he was aware the Landlord was under the impression that the socket had been correctly repaired.

3. Make secure any loose sections of the kitchen flooring.

Nicola Delaney and Robert Nixon acknowledged that the loose flooring had been repaired.

6. Decision and Reasons

6.1 Findings in Fact

1. The repairs to remedy the dampness in the Property specified in clause 1 of the RSEO had not been carried out. The dampness levels remain high in these areas, as explained in the said reinspection report.
2. The dampness found at the reinspection was embedded dampness and as such it had not been caused by condensation.
3. The double socket in the kitchen had been replaced but the surrounding plaster had not been finished properly rendering the socket unsafe and not in proper working order.
4. The loose sections of the kitchen floor had been made secure.

6.2 Given the terms of the said reinspection report dated 28th May 2019, and the representations made at the hearing the Tribunal Determine:-

6.2.1 That items 1 and 2 of the RSEO which required the Landlord to:

1. *Repair the dampness at the following locations in the Property to render the Property water tight:*

1.2 Living Room - *The internal wall between the Living room and the bedroom which was found to be saturated with dampness to a height of approximately 0.4 metres at the corner near to the bay window.*

1.3 Bathroom - *The party wall of the bathroom behind the whb + wc which was found to be saturated with dampness to a height of approximately 1.5 metres. The section of reinforced beam above and facing the bath which was also found to be saturated with dampness*

1.4 Dining/Kitchen -

- d) *The lower right hand side of the cupboard housing the boiler;*
- e) *The corner section of the party wall to the right of the old fireplace, and the section of the dividing wall between the dining/kitchen and bathroom above the new plasterwork at a height of approximately 1.5 metres;*
- f) *The wall section immediately to the right of the doorway into the utility room.*

1.5 Hall Cupboard - *The internal wall between the hallway cupboard and the close to a height of approximately 1.5 metres.*

2 *Repair the broken double socket in the kitchen to render it in proper working order.'*

have not been satisfactorily completed as the required works have not been carried out.

6.2.3 Item 3 of the RSEO has been **satisfactorily completed**.

6.3 The Tribunal were mindful of the fact that the Landlord had relied upon the said report which had been prepared by Peter Cox dated 6th February 2019 which stated that the dampness in the Property had been caused by condensation. The inspection by the Tribunal had determined that the remaining dampness in the Property, identified in the RSEO, was embedded dampness and not just surface dampness and therefore the Tribunal reached the conclusion that terms of the said report by Peter Cox was incorrect. As the Landlord had relied on the terms of the said specialist's report the Tribunal considered it reasonable to vary the RSEO to allow the Landlord additional time to complete the required works. Accordingly as section 25(1) of the Housing (Scotland) Act 2006 authorises the Tribunal to vary a RSEO in

such manner as they consider reasonable the Tribunal determined that the RSEO would be varied as follows:

First, Item 3 is revoked as it has been satisfactorily completed.

Second, the date for completion of the works required in terms of Items 1 and 2 of the RSEO is varied to 14th July 2019.

7.The decision of the Tribunal was unanimous.

Appeals

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.

J Taylor

Signed.....
Chairperson

..... Date 29th May 2019

Housing and Property Chamber
First-tier Tribunal for Scotland



Re-inspection - Photograph Schedule
29B Orchard Street, Renfrew, PA4 8RJ

Case Reference: FTS/HPC/RP/18/2946

Date of inspection: 16/05/2019

Time of inspection: 10.00 am

Weather conditions: Clear and bright

Present: Mrs Jacqui Taylor – Legal Member
Mr Nick Allan – Ordinary Member
Ms Nicola Delaney – Tenant
Mr Robert Nixon – Rite Homes (L/L Rep.)
Mr Craig Weir – Rite Homes (L/L Rep.)
Ms Catriona Philips – Tenants Rep.

Requirement of the RSEO dated 24th January 2019:

The Landlord is required to:-

1. Repair the dampness at the following locations in the property to render the Property water tight:
 - 1.1 **Living Room** – The internal wall between the Living Room and the bedroom which was found to be saturated with dampness to a height of approximately 0.4 metres at the corner near to the bay window.

Re-inspection findings – The affected sections of wall are still completely saturated. Photographs 1 & 2 below refer.



Photo 1 – Saturated wall section



Photo 2 – Saturated wall section

1.2 Bathroom – The party wall of the bathroom behind the whb + wc which was found to be saturated with dampness to a height of approximately 1.5 metres. The section of reinforced beam above and facing the bath which was also found to be saturated with dampness.

Re-inspection findings – The affected sections of wall are still completely saturated. Photographs 3,4,5 & 6 below refer.



Photo 3 – Saturated wall section



Photo 4 – Saturated wall section



Photo 5 – Embedded damp in wall



Photo 6 Embedded damp in beam

1.3 Dining/Kitchen –

- a) The lower right hand side of the cupboard housing the boiler;
- b) The corner section of the party wall to the right of the old fireplace, and the section of the dividing wall between the dining/kitchen and bathroom above the new plasterwork at a height of approximately 1.5 metres;
- c) The wall section immediately to the right of the doorway into the utility room.

Re-inspection findings – The affected sections of wall (a & c) above are still completely saturated. The section of wall (b) above remains significantly damp. Photographs 7,8,9 & 10 below refer.



Photo 7 – Saturated wall section



Photo 8 – Damp wall section



Photo 9 – Saturated wall section



Photo 10 – Saturated wall section

1.4 Hall Cupboard – The internal wall between the hallway cupboard and the close to a height of approximately 1.5 metres.

Re-inspection findings – The affected section of wall remains significantly damp.

2. Repair the broken double socket in the kitchen to render it in proper working order.

Re-inspection findings – The double socket has been replaced but surrounding plaster has not been finished properly and a hole in the wall immediately next to the unit is potentially dangerous. Photograph 11 below refers.

3. Make secure any loose section of the kitchen floor.

Re-inspection findings – The affected sections of floor have been Made secure Photograph 12 below refers.



Photo 11 – Hole at socket



Photo 12 – Secured flooring

Nick Allan FRICS
Surveyor – Ordinary Member
First-tier Tribunal
Housing and Property Chamber – 28th May 2019