

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: PRHP/RP/16/0337

Title no AYR94855

**4 Hamilton Crescent
Stevenston
KA20 4JB
("The Property")**

The Parties:-

**Ms Danielle Frew
4 Hamilton Crescent
Stevenston
KA20 4JB
("the Tenant")**

**Ms Helen Bruce
4 John Brogan Place
Stevenston
KA20 3ED
("the Landlord")**

Whereas in terms of their decision dated 27th March 2017, 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:

- (a) In terms of s13(1)(a) to ensure that the property is wind and watertight
- (b) In terms of s13(1)(c) That installations within the house for the supply of water and gas, for space heating and for 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 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 to:-

N Gibson witness

chairperson

LESLEY DOWDALL name in full

23 THE FOREGATE Address
KILMARNOCK

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)

Chamber Ref:PRHP/RP/16/0337

TITLE NUMBER AYR94855

**4 Hamilton Crescent
Stevenston
KA20 4JB
("The Property")**

The Parties: -

**Ms Danielle Frew
4 Hamilton Crescent
Stevenston
("the Tenant")**

**Ms Helen Bruce
4 John Brogan Place
Stevenston
KA20 3ED
("the Landlord")**

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) in relation to the house concerned, and taking account of the evidence submitted in writing by both the Landlord and the Tenant, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

- 1. By application dated 31st October 2016 the Tenant applied to the Private Rented Housing Panel 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 by the Tenant stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the house meets the repairing standard and in particular :**

- (a) that the Landlord had failed to ensure that the property was wind and watertight as there was a large gap in the front door
 - (b) The boiler required repair and there was no carbon monoxide detection in the property
 - (c) Kitchen units were in a state of disrepair and sink not fixed to unit
 - (d) Windows were unsafe as they had no safety catches
3. By letter dated 17th January 2017 the President of the Housing and Property Chamber (which succeeded the Private Rented Housing Panel on 1.12.2016) intimated a decision to refer the application under Section 22 (1) of the Act to a Tribunal.
 4. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
 5. Following service of the Notice of Referral the Tenant (by letter dated 17th January 2017), made no further written representation to the Tribunal other than the original application. The Landlord (by letter dated 3rd February 2017) made written representations to the Tribunal.
 6. The Tribunal inspected the house on the morning of 24th March 2017. The Tenant was present and the Landlord was not present during the inspection. The Tribunal members were Andrew Taylor (Ordinary Member) and Lesley Dowdalls (Legal Member).
 7. Following the inspection of the house the Tribunal held a hearing at Irvine. The tenant and landlord did not attend and were not represented.

Summary of the issues

The issue to be determined is whether the property meets the Repairing Standard as set out in s13(1)(a)(b) and (g) and whether the Landlord has failed to meet the duty imposed on him by s14(1)(b) of the 2006 Act.

Findings of fact

8. The Tribunal finds the following facts to be established:-
 - The tenancy is a short assured tenancy
 - The tenant is Ms Danielle Frew
 - The registered landlord is Ms Helen Bruce ("Ms Bruce"), 4 John Brogan Place, Stevenston
 - The house is owned by Ms Bruce

- The lease shows Mr Chris Boyce, 18 Loccard Road, Stevenston KA20 4AR ("Mr Boyce") as landlord. Mr Boyce made written representations to the Tribunal
- The tenancy commenced on 13th February 2013
- The rental paid is £500 per calendar month
- The boiler has fluctuating pressure
- There is a loose and dangerous electrical socket in the upstairs hall
- No gas safety certificate has been produced to the tenant
- Inspection on 24th March 2017 showed the following, as detailed in Schedule of Photographs attached hereto:
 - (a) that there is a large gap in the front door due to damage. As a result, the house is not wind and watertight and does not meet the Repairing Standard
 - (b) New kitchen units have been installed and the sink is properly fixed
 - (c) Safety catches have been added to windows throughout the property as necessary

Reasons for the decision

The Landlord has fitted carbon monoxide detection, and has replaced and repaired the kitchen units. Safety catches have been added as necessary to the windows within the property. The tenant does not wish to use the boiler replacement scheme in respect of the house as she feels it will preclude her obtaining such a service if she should need it in future. She wishes the boiler to be repaired. The landlord wished the boiler to be replaced under the replacement scheme. Accordingly, the issues which require determination relate to the safety of the boiler, and the gap in the front door, which renders the house not wind and watertight.

Decision

9. The Tribunal accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
10. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
11. The decision of the Tribunal was unanimous.

Observations

Although not included in the application, the tribunal observed that there is a dangerous and loose electrical socket in the upstairs hall. It is recommended that the landlord engage a suitably qualified electrician to make this safe and leave in proper working order

Right of Appeal

- 12. A landlord, tenant or third party applicant 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

13. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and 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.

L Dowdalls

Signed

Date

Chairperson



4 Hamilton Crescent, Stevenston, KA20 4JB

PRHP/RP/16/0337

Schedule of Photographs - Inspection Date 24th March 2017

Weather – Bright and sunny.

Kilmarock

13th April 2017

This is Schedule
of Photographs referred
to in Decisions of today's
date

L Dowdalls

Chairperson

28 The Foregate

Kilmarock



1. Front door to property property



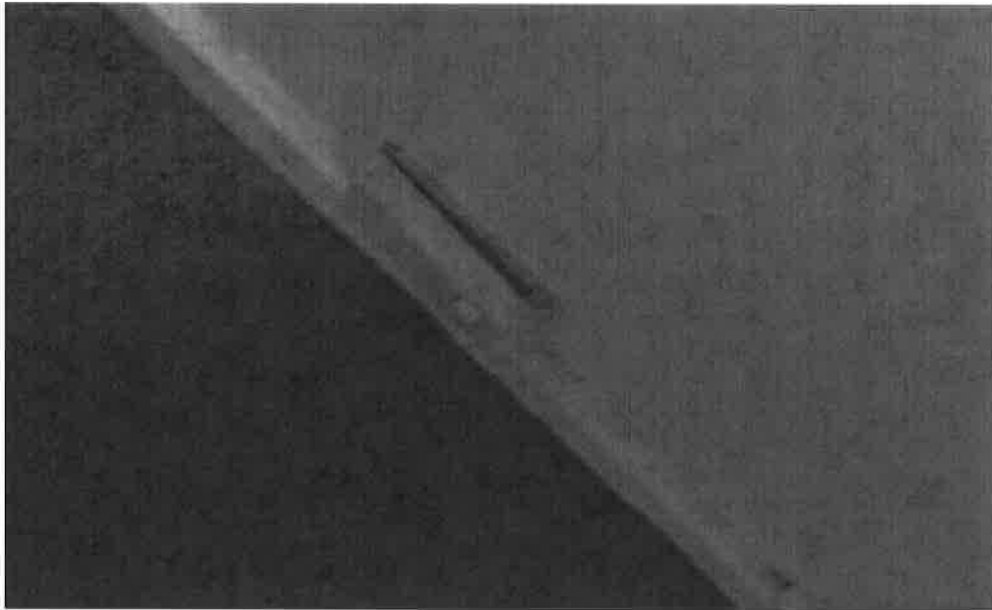
2. Damaged section of front door



3. Safety catch to window



4. Safety catch to window



5. Dangerous electrical socket in upstairs hall