

Housing and Property Chamber

First-tier Tribunal for Scotland



REPAIRING STANDARD ENFORCEMENT ORDER

In respect of an application in terms of Section 22(1A) of the Housing (Scotland) Act 2006 ("the Act")

Chamber Reference number: FTS/HPC/RT/17/0168

The Parties:

Ms Suzana Nedelcu residing at Flat 1/1, 263, Langside Road, Glasgow, G42 8XX ("the Tenant")

Ms Shabnum Sattar residing sometime at 9 Brent Road, Thornliebank, Glasgow, G46 8JG and now at Flat 2/2, 41, Holmlea Road, Glasgow, G44 4BJ ("the Landlord")

Glasgow City Council, having a place of business at Samaritan House, 3rd Floor, 79, Coplaw Street, Glasgow, G42 7JG ("the Third Party Applicant")

Re: Property at Flat 1/1 263 Langside Road, Glasgow, G42 8XX registered in the Land Register for Scotland under Title Number GLA13278 ("the Property")

Tribunal Members

Karen Moore (Chairperson)

Donald Wooley (Ordinary Member)

NOTICE TO THE LANDLORD

Ms Shabnum Sattar residing at Flat 2/2, 41, Holmlea Road, Glasgow, G44 4BJ ("the Landlord")

Whereas in terms of their decision dated 30 June 2017, the First-tier Tribunal for Scotland determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to comply in respect of Section 13(1)(a), Section 13(1)(c) Section 13(1)(f) and Section 13(1) (g) of the Act and failed to ensure that the Property is wind and watertight and reasonably fit for human habitation, that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating

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and heating water are in a reasonable state of repair, that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and that the Property has satisfactory provision for giving warning that carbon monoxide is present in a concentration that is hazardous to health, the First-tier Tribunal now requires the Landlord to carry out the following works or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good.

The Landlord must on or before **11 August 2017**:-

1. Instruct a SELECT or NICEIC electrician to carry out a full inspection of the electrical installation and apparatus throughout the Property and to repair or renew any parts which require to be renewed or repaired to ensure the installation and apparatus is fully functioning and meets current regulatory standards and provide a EICR to the tribunal
2. Instruct a gas safe engineer to carry out a full inspection of the gas central heating system and to repair or renew any parts which require to be renewed or repaired to ensure the installation and system is fully functioning and meet current regulatory standards and provide a gas safety certificate to the tribunal;
3. Repair or renew the broken rear facing window by replacing all panes of glass and renewing or repairing the surrounding frame to ensure that the window is fully functioning and complies with current regulations;
4. Provide and install sufficient hard wired and interlinked smoke, heat and fire detectors to comply with current regulations as defined in the revised statutory guidance detailed in Domestic Technical Handbook prepared by the Scottish Government;
5. Provide and install sufficient carbon monoxide detectors to comply with current regulations and
6. Make good any décor damaged as a result of these works.

In terms of section 46 of the Tribunals (Scotland) Act 2014, a party 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.

Further, in terms of Section 28(1) of the Housing (Scotland) Act 2006, a landlord who, without reasonable excuse, fails to comply with a Repairing Standard Enforcement Order commits an offence liable on summary conviction to a fine not exceeding Level 3 of the standard scale, and in terms of Section 28(5) of that Act, also commits an offence if he or she enters into a tenancy or occupancy agreement in relation to a house at any time during which a Repairing Standard Enforcement Order has effect in relation to the house.

In Witness Whereof these presents printed on this and the two preceding pages are subscribed by Karen Moore, Chairperson of the tribunal, at Glasgow on 30 June 2017 before this witness, Norman William Moore, solicitor, 11 Muirfield Court, Cumbernauld G67 1AA.

W Moore *Witness*

K Moore

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 24 (1) of the Housing (Scotland) Act 2006 ("the Act") in respect of an application under Section 22(1A) of the Act 2006
Chamber Reference number: FTS/HPC/RT/17/0168

Re: Property at Flat 1/1 263 Langside Road, Glasgow, G42 8XX registered in the Land Register for Scotland under Title Number GLA13278 ("the Property")

The Parties:

Ms Suzana Nedelcu residing at Flat 1/1, 263, Langside Road, Glasgow, G42 8XX ("the Tenant")

Ms Shabnum Sattar residing sometime at 9 Brent Road, Thornliebank, Glasgow, G46 8JG and now at Flat 2/2, 41, Holmlea Road, Glasgow, G44 4BJ ("the Landlord")

Glasgow City Council, having a place of business at Samaritan House, 3rd Floor, 79, Coplaw Street, Glasgow, G42 7JG ("the Third Party Applicant")

Tribunal Members

Karen Moore (Chairperson)

Donald Wooley (Ordinary Member)

Background

1. By application received on 26 April 2017 ("the Application"), the third party applicant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the landlord had failed to comply with the duty imposed on her by Section 14 (1) (b) of the Housing (Scotland)

Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1)(a), 13(1) (c), 13(1) (f) and 13(1) (g) of the Act.

Specifically, the application by the Third Party Applicant considered that the Landlords had failed to comply with their duty to ensure that the house meets the repairing standard for the following reasons:-

“No EICR has been provided – there is ~~no~~ written confirmation that smoke/heat detectors have been installed by a duly qualified electrician. CO monitor is in wrong position. The broken window has not been repaired.”

2. A Convenor of the Chamber, with delegated powers under Section 96 of the Housing (Scotland) Act 2014 and Section 21 (8A) of the Act, having considered the application and having determined to continue the Application in terms of Schedule 2, Paragraph 7 (2) of the act, intimated to all parties by Notice of Referral dated 11 May 2017, a decision under Section 23 (1) of the Act to refer the Application to a tribunal, and, in terms of Schedule 2, Paragraph 1 of the Act fixed an Inspection and Hearing for 21 June 2017 at 10.00 a.m. and 11.30 a.m., respectively.

Notice of Direction

3. The tribunal having considered the Application made a Direction in terms of Schedule 2, Paragraphs 2(1) and 3 (1) (b) to the Act directing the Landlord to provide an Electrical Installation Condition Report for the Property and a Gas Safety Certificate for the Property.
4. The Landlord did not respond to the Direction and did not submit the documents requested by the tribunal.

Inspection

5. The Inspection took place on 21 June 2017 at 10.00 a.m. at the Property. None of the third-party applicant, the tenant and the Landlord was present at the Inspection and so the tribunal could not gain access to inspect the internal parts of the Property. Accordingly, the tribunal's observations are based entirely on an external inspection at ground level from the public

road, and the communal rear court with internal observations limited to the common close and stairwell.

6. In particular, the tribunal was unable to inspect the following matters complained of by the third party applicant in the Application, namely, that the positioning and presence of carbon monoxide detectors and whether the smoke/heat detectors, should they exist, comply with current Scottish Government statutory guidance.
7. No Electrical Installation Condition Report or Gas Safety Certificate was available for inspection.
8. The tribunal inspected the external parts of the Property complained of by the third party applicant in the Application, namely the broken window.
9. At the Inspection, the tribunal took digital photographs which photographs form the Schedule annexed to this decision.
10. ~~At the~~ Inspection the tribunal spoke with the occupier of the tenement flat situated opposite the Property. The occupier gave his name as Mr. Craig Hunter and advised the tribunal that, as far as he was aware, the Tenant had vacated the Property but that another person who is not the Landlord currently occupied the Property.

Hearing

11. Following the Inspection, a Hearing was held at Wellington House, 134-136, Wellington Street Glasgow, G2 2XL on the same day at 11.30 a.m. None of the third-party applicant, the tenant and the Landlord was present at the Hearing and so no evidence was heard.

Summary of the Issues

12. The issues to be determined by the tribunal are whether or not the Property meets the Repairing Standard in respect of Sections 13(1) (a), 13(1) (c), 13(1) (f), and 13(1) (g) of the Act at the date of the Inspection and Hearing.

Findings of Fact

13. The Landlord is the owner of the Property. The tenancy agreement lodged by the third party applicant as part of the Application is sufficient to

establish that a tenancy exists and, in the absence of any evidence to the contrary, the tribunal is satisfied that Ms Suzana Nedelcu was the tenant at the date of the Application, and, accordingly, the tribunal is satisfied that it has jurisdiction.

14. The Property is a first floor self-contained purpose built flat within a four storey tenement building constructed around 1900. The Property is accessed by a common close and stair shared with seven other co-proprietors. The outer walls of the tenement building are of sandstone construction and the roof appears to be pitched and clad externally with concrete tiles. There is a communal rear court and there are common bin shelters to the rear of the tenement building. The tribunal is unable to make comment on the extent of the living accommodation in the Property.
15. From the Inspection, the tribunal found the following in respect of matters specifically complained of in the Application:
The rear facing window, assumed to be the kitchen window, is broken. There are missing panes of glass and the affected areas have been temporarily enclosed with cardboard sheeting. The surrounding frame is in poor condition, neglected and in need of repair.
16. From the Inspection, the tribunal found the following general matters in respect of the Property and the common parts of the tenement building of which the Property forms part :
General maintenance of the remaining windows of the Property, which appear to be of single glazed timber sash and casement design, has been neglected and they are in need of significant repair;
The tenement building suffers from neglect and a general lack of common maintenance;
The rainwater goods are badly corroded and in places choked with vegetation;
The external stonework is weathered and displays signs of delamination;
There is evidence of a forced entry at the entrance door to the Property and repairs are necessary to the door handle and surrounding area;
Maintenance of the common close has been neglected. The rear facing close/stairwell windows are in poor general condition and in need of repair;

The window between the first and second floors was, at the time of the Inspection, wedged open and supported by a vertical section of timber; At the stair-head ceiling there is a large section of badly bossed, cracked and missing plaster and Maintenance of the communal rear court has been badly neglected and it is overgrown with vegetation.

17. In respect of the Electrical Installation Condition Report for the Property and a Gas Safety Certificate for the Property, none was submitted by the Landlord and so the tribunal could not be certain that these installations are functioning properly and in accordance with current statutory guidelines.

Decision of the tribunal and reasons for the decision.

18. The tribunal's decision is based on the Application with supporting documents and the Inspection.
19. In respect of the complaint in terms of Section 13 (1) (a) that the Property is not wind and watertight and reasonably fit for human habitation, the tribunal found that a rear window at the Property is lacking a frame and glazing and so the tribunal found that at the date of the Inspection and Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
20. In respect of Section 13(1) (c) of the Act, the tribunal found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that, as there is no apparent Electrical Installation Condition Report nor a Gas Safety Certificate for the Property, the tribunal cannot be certain that the installations in the Property 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.
21. In respect of Section 13(1) (f) of the Act, the Committee found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the tribunal cannot be certain that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

22. In respect of Section 13(1) (g) of the Act, the Committee found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the tribunal cannot be certain that the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
23. Although no complaint was made in the Application in respect of the condition of the windows in the Property, other than the broken kitchen window, and although no complaint was made in the Application in respect of the condition of the common parts of the tenement building of which the Property forms part, the Landlord's attention is drawn to the findings of the tribunal. The tribunal's advice to the Landlord is that repair and maintenance of the items listed at paragraph 16 of this decision should be undertaken without delay.
24. The decision was unanimous.

Repairing Standard Enforcement Order

25. Having determined that the Landlord has failed to comply with the duty imposed by section 14(1) (b), the tribunal proceeded to make a Repairing Standard Enforcement Order as required by Section 24 (1) of the Act.

Appeal

In terms of section 46 of the Tribunals (Scotland) Act 2014, a party 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.

Effect of Section 63

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

K Moore

Karen Moore

Chairperson

30 June 2017

This is the Schedule of photographs referred to in the foregoing decision reference FTS/HPC/RT/17/0168 dated 30 June 2017

K Moore

Flat 1/1, 263 Langside Road, Glasgow, G42 8XX

solicitor and notary
public,

Schedule of Photographs taken at the inspection on 21st June 2017

Glasgow,
Chairperson.
30/6/2017



Photograph 1:- Front elevation viewed from Langside Road.



Photograph 2:- Front windows of flat viewed from Langside Road.



Photograph 3:- Rear windows of flat viewed from communal back court.



Photograph 4:- Missing, bossed, cracked & damp ceiling plaster at close stairwell.



Photograph 5:- Defective sash window jammed open close stairwell



Photograph:-6



Photograph:- 7

Photographs 6 and 7 illustrate damaged entry door as a result of a previous forced entry and badly bossed / flaking paintwork on surrounding internal close wall.