

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Repairing Standard Enforcement Order
Housing (Scotland) Act 2006 : Section 24**

Chamber Ref: PRHP/RP/16/0314

Title Number: GLA58302

**Flat 3/1, 15 Dixon Avenue, Glasgow, G42 8EB
("The House")**

The Parties:-

**Miss Lisa Craig,
residing at the House ("the Tenant")**

**Mohammed Qammer Shebaz, 50 Leven Street, Glasgow, G41 2JB
("the Landlord")**

NOTICE TO

Mohammed Qammer Shebaz

Whereas in terms of their decision dated 23rd February 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 and, in particular, that the Landlord has failed, in terms of Section 13 of the said Act to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation; that 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; 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; that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire; that the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health the tribunal now makes a repairing standard enforcement order (RSEO) and requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard in terms of Section 13 of the said Act 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 following:

(One) The Landlord is to install a fan in the kitchen window that meets the required regulations.

(Section 13 (1) (a) of the 2006 Act)

(Two) The Landlord is required to repair or replace kitchen units to ensure that their doors operate properly and to install backings to all kitchen units to ensure that there are no draughts.

(Section 13 (1) (a) and 13 (1) d) of the 2006 Act)

(Three) The Landlord is required to repair ceiling in the kitchen and to make good any décor required as a consequence of the repair.

(Section 13 (1) (b) of the 2006 Act)

(Four) The Landlord is to produce an electrical installation condition report prepared by a suitably competent person confirming that the electrical system within the Property is in a safe and efficient condition together with any electrical appliances provided by the Landlord. This report should be in conformity with Scottish Government Statutory Guidance.

(Section 13 (1) (c) of the 2006 Act)

(Six) The Landlord is to install a heat detector, carbon monoxide detector and smoke detectors to comply with current regulations.

(Section 13 (1) (f) and (g) of the 2006 Act).

In view of the nature of the failure to meet the Repairing Standard as defined in the 2006 Act, the tribunal determined that the repairing standard enforcement order requires to be completed within a period of five weeks from its service on the Landlords.

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 preceding page are executed by Martin Joseph McAllister, solicitor, legal member, chairperson of the tribunal at Kilwinning on 1st March 2017 before Kayleigh Guthrie, witness, 83 Main Street, Kilwinning.

M McAllister

K Guthrie

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination : Housing (Scotland) Act 2006: Section 24

Chamber Ref: PRHP/RP/16/0314

Title Number: GLA58302

**Flat 3/1, 15 Dixon Avenue, Glasgow, G42 8EB
("The House")**

The Parties:-

**Miss Lisa Craig,
residing at the House
("the Tenant")**

**Mohammed Qammer Shebaz, 50 Leven Street, Glasgow, G41 2JB
(" the Landlord")**

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) of The Housing (Scotland) Act 2006 ("the 2006 Act") in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the 2006 Act and made a repairing standard enforcement order in terms of Section 24(2) of the said Act.

Background

1. By application received on 3rd October 2016 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the 2006 Act. The tribunal assumed responsibility for the application on 1st December 2016.

2. The application by the Tenant stated that she considered the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. The application stated that a window in the kitchen has a piece of plastic sheeting covering a circular hole intended for a fan, a faulty cooker, faults with kitchen units, defects in the ceiling of the kitchen, defects to the floor of the bathroom, a faulty Yale lock, a faulty light in the hallway, absence of a gas safety check, failure of the boiler to properly heat water and non compliance with the requirements for carbon monoxide and smoke detection.

3. A legal member of the tribunal, acting under delegated powers, having considered the application, referred the application under Section 23 (1) of the Act to members of the tribunal to determine the matter, those members being Martin McAllister, legal member and Alex Hewton, surveyor, ordinary member.

4. The Private Rented Housing Panel served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant on 24th January 2017.

5. The tribunal attended at the Property on 16th February 2017 for an inspection. The Tenant was present. Neither the Landlord nor his representative was present. The House is a third floor tenement flat. Attached to the Determination is a schedule showing internal and external photographs. The tribunal found the following:-

6 Findings on Inspection

6.1 The kitchen window has a circular hole in the glass designed for installation of a fan. No fan was installed and a piece of plastic was taped over it.

6.2 The tenant had replaced the cooker since she had made the application.

6.3 The kitchen unit doors could not close properly and were ill fitting. Some floor standing units had no backing and the stonework of the structure of the tenement was visible.

6.4 A section of ceiling in the kitchen shows evidence of the effects of water penetration and consequent damage to the ceiling and the décor.

6.5 There is no heat detector in the kitchen.

6.6 The bathroom floor is uneven and is covered in plaster/grout.

6.7 The hall light is functioning. The electrical fittings appeared dated.

6.8 The tenant produced a copy of a Gas Safety Record dated 3rd February 2017. A copy is attached to this Determination.

6.9 One carbon monoxide detector is sitting on a shelf in the kitchen.

6.10 One battery operated smoke detector is in the hall, is not fixed and is sitting on a shelf above the door to the kitchen.

9. The Hearing

Following the Inspection, a Hearing took place at Wellington House, Glasgow. The Tenant was present and gave evidence. The Landlord was neither present nor represented.

10. The Issues

Sections 13(1) (a), (b), (c), (d), (f) and (g) of The 2006 Act (as amended) provide that the Property must be wind and watertight and in all respects reasonably fit for human habitation, 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, 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, any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order and the Property has satisfactory provisions for detecting fires and giving warning in the event of fire or suspected fire and giving warning if carbon monoxide is present in a concentration that is hazardous to health.

The specific issues which the tribunal required to address were those detailed in the application.

11. The Evidence.

Miss Craig said that she had lived in the House for around thirteen years and she supplied the tribunal with a copy of her latest tenancy agreement dated 17th November 2016.

Miss Craig said that she had replaced the cooker supplied by the Landlord with one of her own and that therefore any defects of the cooker referred to in her application can be disregarded.

Miss Craig said that the Yale lock had been removed. She said that there had been a mortice lock as well as a Yale lock and that the mortice lock is still on the door and works effectively.

The tribunal had regard to the terms of the Gas Safety Record and noted that the engineer had certified the appliances, being the boiler and the cooker, as safe. Miss Craig said that, when she made the application, there had been issues with the boiler failing to heat water but that she had not experienced this for some time. She said that the fault had been intermittent. She said that the Landlord had last had the boiler service three years ago.

Miss Craig said that the fault with the hall light is intermittent and that it occasionally flickers. She said that she has complained to the Landlord but that no action has been taken. She said that no electrician had been in the House for the purpose.

Miss Craig said that the windows in the flat had been replaced around six years ago and that the hole in the kitchen window had been there since its installation. She said that draughts come through the hole.

~~Miss Craig said that she felt draughts from those kitchen units which have no backing.~~

Miss Craig said that there had been a leak in the kitchen which had caused damage to the kitchen ceiling. She said that a tradesman who had been working in the property had expressed the view that the leak might be caused from condensation from a now disused communal water tank which is situated immediately above where the damage to the ceiling is. She said that the Landlord had told her that he saw no issue with the present condition of the ceiling.

Miss Craig said that some years ago she had fitted tiles to the bathroom floor. She said that these had been fitted on plywood which was the surface of the bathroom prior to it being tiled. She said that the tiles had been lifted leaving plaster or grout which is uneven and unsightly.

Miss Craig said that the Landlord had recently provided the battery operated carbon monoxide and smoke detectors.

12. The Tribunal's Findings

12.1 The kitchen window is defective and there are draughts caused by the hole designed for a fan.

12.2 The kitchen units are defective and have doors which do not operate effectively. Some kitchen units have no backing leaving exposed stonework.

12.3 There is a section of kitchen ceiling which is damaged and which requires to be repaired.

12.4 There is no Yale lock on the external door.

12.5 The bathroom floor is uneven.

12.6 There is no heat detector in the kitchen. There is one smoke detector in the House and a carbon monoxide detector in the kitchen.

12.7 The gas boiler has not been serviced in the previous three years.

12.8 The Tenant has replaced the cooker since she submitted the application to the tribunal.

12.9 The tribunal has not had sight of an electrical installation condition report relating to the House.

13. Reasons

13.1 The tribunal accepted the evidence of the Tenant. It also took note of what it had found at the inspection.

13.2 The tribunal considered that it was reasonable to conclude that there are draughts as a consequence of the absence of a fan in the kitchen window and the absence of backings to some kitchen units.

13.3 It was self evident that there is damage to the ceiling of the kitchen, that the bathroom floor is uneven and unsightly and that the doors of the kitchen units are faulty.

14. The tribunal considered whether or not any defects it found established brought the Property below the repairing standard in terms of the 2006 Act. It considered the fact that the boiler has not been serviced did not, in itself, mean that it impacted on the repairing standard. The Tenant had indicated that there are no longer issues with respect to heating of water. The tribunal considered that the condition of the bathroom floor is cosmetic and follows upon removal of tiles carried out by the Tenant.

In respect of the Findings it had made, the tribunal considered that a repairing standard enforcement order should be made because the Property fails to meet the repairing standard.

Determination

The tribunal determined that the Landlord has failed to comply with the duties imposed by Section 14(1)(b), of the 2006 Act, as stated.

15. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) and 24(2) of the 2006 Act in the following terms:

(One) The Landlord is to install a fan in the kitchen window that meets the required regulations.

(Section 13 (1) (a) of the 2006 Act)

(Two) The Landlord is required to repair or replace kitchen units to ensure that their doors operate properly and to install backings to all kitchen units to ensure that there are no draughts.

(Section 13 (1) (a) and 13 (1) d) of the 2006 Act)

(Three) The Landlord is required to repair ceiling in the kitchen and to make good any décor required as a consequence of the repair.

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(Section 13 (1) (c) of the 2006 Act)

(Six) The Landlord is to install a heat detector, carbon monoxide detector and smoke detectors to comply with current regulations.
(Section 13 (1) (f) and (g) of the 2006 Act).

In view of the nature of the failure to meet the Repairing Standard as defined in the 2006 Act, the committee determined that the repairing standard enforcement order requires to be completed within a period of five weeks from its service on the Landlords

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M McAllister

Martin Joseph McAllister,
Chairman, legal member of
Tribunal.

1/3/12

FLAT 3/1, 15 DIXON AVENUE, GLASGOW, G42 8EB

Schedule of photographs taken at the inspection on 16th February 2017.

Photo 1 – Exterior of property

Photo 2 – Bathroom floor

Photo 3 – Damaged ceiling from leak

Photo 4 – Cooker replaced by Tenant

Photo 5 – Boiler

Photo 6 – Boiler controls

Photo 7 – Electric consumer unit and meter

Photo 8 – Gas meter

Photo 9 – Smoke alarm

Photo 10 – Co2 alarm

Photo 11 – Fridge (not PA tested)

Photo 12 - Fridge freezer (not PA tested)



Exterior of property

Bathroom floor

Flat 3/1, 15 Dixon Ave, Glasgow, G42 8EB

Schedule of Photographs taken at inspection on 16th February 2017



Damaged ceiling from leak



Cooker replaced by Tenant







Boiler



Boiler controls

Flat 3/1, 15 Dixon Ave, Glasgow, G42 8EB

Schedule of Photographs taken at inspection on 16th February 2017

	
Electric consumer unit and meter	Gas meter
	
Smoke alarm	Co2 alarm

Flat 3/1, 15 Dixon Ave, Glasgow, G42 8EB

Schedule of Photographs taken at inspection on 16th February 2017



Fridge (not PA tested)



Fridge Freezer (not PA tested)

Serial No:
9556544

LANDLORD/HOMEOWNER GAS SAFETY RECORD



This form allows for the recording of results of checks as defined by the Gas Safety (Installation and Use) Regulations. Information recorded on this form does not confirm that the installation was installed by a Gas Safe registered business or that the installation complies with relevant Building Regulations. Chimney/flues etc. were visually checked for adequate evacuation of combustion products. A detailed internal inspection has not been undertaken.

Details Of Registered Business

The Gas Guy
Gas Safe Reg. No: 575854
123 Shawmoss Road,
Maxwell Park
Tel. No: 07730 364 278

Job Address

Name:	A	Name:	M
Address:	1	Address:	
Tel No:		Tel. No:	
Is Accommodation Rented? (Y/N)		No. Of Appliances Tested:	2

Landlord/Agent Address

Satisfactory Visual Inspection (Y/N)	Emergency Control Accessible (Y/N)	Satisfactory Gas Tightness Test (Y/N)	Equipotential Bonding Satisfactory (Y/N)
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Appliance Details

Appliance Location	Appliance Make	Appliance Model	Appliance Type	Type of Flue (OF/RS/FL)	Landlords Appliance? (Y/N)	Appliance Inspected? (Y/N)
1						
2						
3						
4						
5						

Inspection Details

Operating Pressure in mbar and/or Heat Input kW/Btu/h	Are Safety Devices Working? (Y/N)	Satisfactory Ventilation? (Y/N)	Flue Visual Condition (Pass/Fail/NA)	Flue Performance Checks (Pass/Fail/NA)	Combustion Analyser Reading		Appliance Serviced? (Y/N)	Appliance Safe To Use? (Y/N)	Approved CO alarm fitted?	Does the CO alarm work?
1					CO: CO2 Rate	CO PPM				
2										
3										
4										
5										

Defect(s) Identified

Warning Advice Issued (Y/N)

Remedial Work Undertaken

Details Of Work Carried Out

1. All gas safety certificates
2. All gas safety certificates
3. All gas safety certificates
4. All gas safety certificates
5. All gas safety certificates

Gas Safety Check

Received By:	Issued by:	ID Card No:	Date:
Signature:	Signature:		
Date:			