

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

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

**Chamber Ref: FTS/HPC/RP/17/0234**

**Title no/Sasines Description: GLA126367**

**Flat 0/2, 16 Clifford Street, Glasgow, G51 1NT  
("the House")**

**The Parties:-**

**Mr Paul Pattison, formerly residing at the property  
("the Tenant")**

**KPM Estates Limited, 10 Lynedoch Crescent, Glasgow, G3 6EQ  
("the Landlord") (represented by KPM Residential Limited, 23 Park Circus,  
Glasgow, G3 6AP)**

Whereas in terms of their decision dated 14 August 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 to ensure that:-

- (a) 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. (Section 13 (1) (b) of the 2006 Act)
- (b) 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. (Section 13 (1) (c) of the 2006 Act)
- (c) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. (Section 13 (1) (g) of the 2006 Act).

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:-

- (a) To instruct an appropriately qualified contractor to identify the source of the water ingress within the kitchen and to carry out such works as may be identified within said report to eradicate the water ingress and repair the damage caused by the water ingress to ensure that the structure of the house is in a reasonable state of repair and in proper working order.
- (b) To carry out an investigative fibre optic camera survey of the soil pipe located in the kitchen and to carry out such works as may be identified by said survey to ensure that the pipe is in a reasonable state of repair and in proper working order.
- (c) To install a carbon monoxide alarm compliant with current regulations.

The Tribunal order that the works specified in this Order must be carried out and completed within the period 12 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.**

In terms of Section 63 of the Act, 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 type written on this and the preceding page are executed by Patricia Anne Pryce, legal member of the Tribunal, at Glasgow on 14 August 2017 in the presence of the undernoted witness:-

**N Pryce**

witness

**P Pryce**

NICHOLAS PRYCE name in full

55 BLYTHWOOD ST Address

GLASGOW

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

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

**Chamber Ref: FTS/HPC/RP/17/0234**

**Flat 0/2, 16 Clifford Street, Glasgow, G51 1NT  
("The Property")**

**The Parties:-**

**Mr Paul Pattison, formerly residing at the property  
("the Tenant")**

**KPM Estates Limited, 10 Lynedoch Crescent, Glasgow, G3 6EQ  
("the Landlord") (represented by KPM Residential Limited, 23 Park Circus,  
Glasgow, G3 6AP)**

**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 representations submitted by the Landlord and the Tenant, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

**The tribunal consisted of:-**

<b>Patricia Anne Pryce</b>	<b>-</b>	<b>Legal Member</b>
<b>Nick Allan</b>	<b>-</b>	<b>Ordinary Member (Surveyor)</b>

**Background**

- 1. By application comprising documents received on 21 June 2017, the Tenant applied to the First-tier Tribunal (Housing and Property Chamber) 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 its duty to ensure that the house meets the repairing standard and that the said failure was established as follows:-**

- (a) The property has had a leaking water pipe for more than three months. The pipe allows large amounts of water to flow into the property several times a day. This has caused damp, rot and mould to affect the kitchen, personal property and floors.
- (b) There is no carbon monoxide alarm.

The Tenant considered that the Landlord is in breach of its duty under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlord has failed to ensure:-

- (i) 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.
  - (ii) 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.
  - (iii) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. By Minute dated 23 June 2017 the Convener of the tribunal, with delegated powers under Section 96 of the Housing (Scotland) Act 2014 and Section 21(8A) of the Act, intimated a decision to refer the application under Section 23(1) of the Act to a tribunal.
  4. The tribunal served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord, the Tenant and the Landlord's representatives advising that the inspection and hearing would take place on 8 August 2017 at 11 am and 2 pm respectively. Submissions were received from the Landlord. The Tenant vacated the property and indicated that he wished to withdraw his application. The Tenant was no longer party to the application. The Tribunal issued a Minute of Continuation on 3 August 2017 confirming that it wished to proceed with the application on the grounds of health and safety.

### **The Inspection**

5. An inspection and hearing were arranged for 8 August 2017 at 11 am and 2 pm respectively. The tribunal attended at the property. The Landlord's representatives, Mr Liam Underwood and Mr Jahanzaak Malik, both employees of KPM Estates Limited, were in attendance at the property. The tribunal noted the following at inspection:-
  - Damp meter readings obtained from the wall of the kitchen were at the maximum level possible. The wall was saturated from top to bottom.

- The property is a ground floor flat located within a traditional red sandstone tenement comprising a lounge, kitchen, one bedroom and a bathroom.
- There is penetrating dampness located in the kitchen ceiling, wall, cupboard and floor.
- The soil pipe leaks and is in an extremely poor state of repair.
- There was a gas boiler located in the kitchen.
- There was no carbon monoxide alarm located in the property.

### **Reasons for the decision**

9. The tribunal noted that in terms of the present application the Tenant had first notified the Landlord of the outstanding repairs in April 2017, over four months ago. Despite this, no work had been carried out to the kitchen which was now suffering from dampness on the ceiling, wall and floor.

Given all of the circumstances, the tribunal is satisfied that: the structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order as there is penetrating dampness located in the kitchen ceiling, the kitchen floor is saturated as a result of water ingress and the kitchen cupboard is saturated as a result of water ingress; the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order as the soil pipe is leaking and in an extremely poor state of repair; the house does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health as there were no carbon monoxide detector located within the property.

### **Decision**

10. The tribunal accordingly determined that the Landlord had not complied with the duty imposed by Section 14 (1)(b) of the Act.
11. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
12. The decision of the tribunal was unanimous.

### **Right of Appeal**

13. 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

Signed **P Pryce**

Date 14 August 2017

Legal Member





## **Photograph Schedule**

**Flat 0/2, 16 Clifford Street, Glasgow, G51 1NT**

**Case Reference:** FTS/HPC/RP/17/0234

**Surveyor:** Nick Allan

**Date of inspection:** 08/08/2017

**Time of inspection:** 11.00 am

**Weather conditions:** Dry and sunny

**Present:** Patricia Anne Pryce – Legal Member  
Nick Allan – Ordinary Member  
Mike Links – Ordinary Member (Appraiser)  
Liam Underwood - L/L Representative  
Jahanzaak Malik – L/L Representative



**Photo 1 – Front elevation**



**Photo 2 – Water damage on kitchen wall**



**Photo 3 – Electric switch and vent issue**



**Photo 4 – Waste water pipe-chase**



**Photo 5 – Water damage on kitchen ceiling**



**Photo 6 – Location of Gas Boiler**



**Photo 7 – Gas Boiler**





**Photo 8 – Exposed waste water pipe**



**Photo 9 – Water damage within cupboard**

Nick Allan FRICS  
Surveyor – Ordinary Member  
First-tier Tribunal  
Housing and Property Chamber - 10<sup>th</sup> August 2017