

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: FTS/HCP/RP/17/0305

Title no: STG44527

**67 Prospect Street, Camelon, Falkirk FK1 4BA
("the house")**

The Parties:-

**Ms Fiona McGleave formerly of 67 Prospect Street, Camelon, Falkirk, FK1 4BA
(represented by Reverend Evan Ross, 5 Arneil Place, Brightons, Falkirk)**

("the former Tenant")

**Ms Evelyn Anderson, c/o Campbell and Dean, 12 Meadow Street, Falkirk FK1
1RP**

**(represented by their agent Mr James Redfern, Campbell and Dean, 12 Meadow
Street, Falkirk FK1 1RP)**

("the Landlord")

Whereas in terms of their decision dated 20 October 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 the fittings, fixtures and appliances in the house are in a reasonable state of repair:

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:

- 1) Strip off boss tiles at bath/shower surround and refix securely to wall. On completion make good sealant at bath.

The Tribunal order that the works specified in this Order must be carried out and completed within the period one month 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(s) are executed by Judith Lea, legal member of the Tribunal, at Arbroath on 20/10/17 in the presence of the undernoted witness:-

P MacFarlane

witness

J Lea

Legal Member

PATRICIA MACFARLANE name in full

47 CAMERON ST Address

STONELANDEN

AB39 2HS

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: FTS/HPC/RP/17/0305

Title no: STG44527

67 Prospect Street, Camelon, Falkirk FK1 4BA
("the house")

The Parties:-

Ms Fiona McGleave formerly of 67 Prospect Street, Camelon, Falkirk, FK1 4BA (represented by Reverend Evan Ross, 5 Arneil Place, Brightons, Falkirk)

("the former Tenant")

Ms Evelyn Anderson, c/o Campbell and Dean, 12 Meadow Street, Falkirk FK1 1RP
(represented by their agent Mr James Redfern, Campbell and Dean, 12 Meadow Street, Falkirk FK1 1RP)

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

Background

1. By application received on 4 August 2017 the former Tenant applied to the 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 former Tenant stated that she considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure: - the house is wind and water tight and in all other aspects reasonable fit for human habitation; 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 any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
3. By letter dated 4 August 2017 the President of the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal.
4. The tribunal received confirmation from the former Tenant that the tenancy had been terminated. On 28 August an in house Convenor decided the application should continue for a determination.
5. The tribunal comprising Judith Lea, Legal Member and Andrew Taylor, Ordinary member inspected the house on the morning of 16 October 2017. The landlord's representative James Redfern was present during the inspection.
6. Following the inspection of the house the tribunal held a hearing at Wallace House, Maxwell Place, Stirling. James Redfern attended the hearing on behalf of the Landlord. Reverend Evan Ross and Rolland Oliver (downstairs neighbour) attended the hearing as members of the public.

Findings of fact and Reasons for the decision

7. The tribunal considered each of the issues raised by the former Tenant in turn.

Bathroom taps, plumbing and tiles and ceiling

It was clear from the inspection that the taps had been repaired and were in proper working order and that the toilet flush is working properly. The mdf composite ceiling had been cleaned and there was no sign of mould. An extractor fan has also been installed. The tiles round the bath had been re-fixed to the wall but the bottom tiles were loose. Mr Redfern confirmed at the hearing that the contractor had advised that the tiles should be taken

off and the wall allowed to fully dry out before they were re-fixed to the wall. The tribunal considers that at present there is a risk of water from the shower (which is over the bath) going through the gaps in the tiles. This accordingly is a breach of the repairing standard section 13(1)(d) and the tribunal proceeded to make an Order.

Smoke alarms and heat detector

The former Tenant had complained that there was no fire blanket in the house. The tribunal noted that there was a heat alarm in the kitchen and hard-wired smoke alarms in the hall and living room. There is no requirement for a fire blanket to meet the repairing standard.

Kitchen sink, splash back, fridge and floor

It was clear from the inspection that a new kitchen sink had been fitted with a new splash back. There was no sign of any damp in the kitchen. The kitchen floor was in a reasonable state of repair. Mr Redfern confirmed that the fridge in the property was a new fridge which had replaced the old fridge.

Front Bedroom

It was clear at the inspection that plasterwork had recently been carried out in the area where the chimney stack and fireplace had been. Mr Redfern confirmed that the chimney stack and fireplace had been removed and stripped and the plaster repair had been done and all that was now required was redecoration. There was no sign of damp in the room, damp meter readings being normal.

Back Bedroom

There was no sign of damp in this room which had recently been re-decorated.

Entrance Hall

There had previously been serious water ingress in the hall. Mr Redfern confirmed that the chimney stack has been removed and capped and the hall has been redecorated and the window frame re-stained. At the inspection there was no longer any sign of damp or water ingress in the hall. Externally it could be seen that the chimney stack had been removed and the roof retiled to a good standard.

Front Door

At inspection the front door lock was checked and it has a functioning Yale and mortar lock. There was no sign of any gap underneath the door.

A Schedule of Photographs is attached to this Decision.

Decision

8. The tribunal found that the Landlord had carried out a lot of work at the house and had dealt very satisfactorily with the majority of the former Tenant's complaints. The only matter outstanding is in relation to the tiles around the bath. Given the risk to the downstairs property if the tiles are not properly fixed the tribunal considered it necessary to make an Order. The tribunal accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
9. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1). The tribunal considered that a period of one month would give the Landlord sufficient time to rectify matters.
10. The decision of the tribunal was unanimous.

Right of Appeal

11. **A landlord, tenant or third party applicant aggrieved by the decision of the tribunal 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

12. 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.

Signed **J Lea**

Date 20/10/17

Legal Member



67 Prospect Street, Camelon, Falkirk, FK1 4BA
FTS/HPC/RP/17/0306
Schedule of Photographs - Inspection Date 16th October 2017
Weather – Wet and windy



1. The property



2. Bathroom ceiling



3. Tiles and sealant at bath



4. Hard-wired smoke alarm - hall



5. New sink, taps and splash back in kitchen



6. Interior of kitchen sink unit



7. Wall adjacent kitchen sink unit



8. Hard-wired heat detector in kitchen



9. Refrigerator in kitchen



10. Hard-wired smoke detector in living room



11. Former chimney breast – front bedroom



12. Back bedroom



13. Ceiling in stair well



14. Roofing renewed where chimney was removed



15. External door to flat