

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Rent Relief Order under Section 27 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RT/18/0726

Title no/Sasines Description: REN96323

Property Address: 7 Quarry Road, Paisley PA2 7RD ("the property")

The Parties: Ms Leana Zaccarini, 7 Quarry Road, Paisley PA2 7RD ("the tenant")

Mr David Blackwood, 15/1 Carriagehill Drive,
Paisley PA2 6JG ("the Landlords")

Renfrewshire Council, Renfrewshire House, Cotton
Street, Paisley PA1 1BR ("the third party applicant")

NOTICE TO LANDLORD

Whereas in terms of its decision dated 16 October 2018 the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the tribunal.

The tribunal determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 90% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last day on which the decision to make the Rent Relief Order may be appealed under section 64 of the said Act. To ascertain the last date on which the decision can be appealed, please refer to the information note on appeals and reviews, a copy of which is attached.

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.

If the application for permission to appeal is received, then the Tribunal will notify you of this and the eventual outcome of that application and any subsequent appeal.

M Thorley

Signed

Legal Member and Chair

Date16.10.18.....

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

Chamber Ref: FTS/HPC/RT/18/0726

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The Parties: Ms Leana Zaccarini, 7 Quarry Road, Paisley PA2 7RD ("the tenant")

Mr David Blackwood, 15/1 Carriagehill Drive, Paisley PA2 6JG ("the Landlords")

Renfrewshire Council, Renfrewshire House, Cotton Street, Paisley PA1 1BR ("the third party applicant")

Decision

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), having taken account of the findings of the re-inspection of 7 September 2018 determine that the landlord has failed to comply with the Repairing Standard Enforcement Order dated 4 July 2018 in terms of Section 26(1) of the Housing (Scotland) Act 2006 ('the Act').
2. The tribunal must serve notice of the failure on the local authority as required by Section 26(2)(a) of the 2006 Act.
3. The tribunal decided to make a rent relief order in terms of Section 26(2)(b) of the 2006 Act.
4. The decision of the tribunal is unanimous.

Reasons

1. By application received on 28 March 2018 the third party applicant applied to the tribunal for a determination of whether the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the 2006 Act.
2. On 18 June 2018 an inspection of the property and a hearing took place.
3. On 4 July 2018 the tribunal issued a decision in terms of Section 24(1) of the 2006 Act and made a Repairing Standard Enforcement Order ("RSEO") requiring the landlord to carry out such work as is necessary for the purposes of ensuring that the property meets the repairing standard in Section 13 of the 2006 Act and that any damage caused by the carrying out of any work in terms of the RSEO is made good. In particular the tribunal required the landlord to:-

- (a) Carry out such works as are necessary to ensure there is an acceptable provision for detecting fires and for giving warning in the event of fire or suspected fire.
 - (b) To carry out such works as are necessary to ensure that there is an acceptable provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
 - (c) To instruct and obtain a gas safety certificate which report should be carried out by a suitably qualified and registered gas engineer and carry out such works as is necessary to rectify any identified issue and provide the tribunal with a report from a suitably qualified and registered gas engineer confirming that the works are completed.
 - (d) To instruct a certified electrical installation condition report and portable appliance test which report should be carried out by a suitably qualified and registered SELECT or NICE electrical contractor, to carry out such works as are necessary to rectify any identified issues in the report and provide the tribunal with a report from a suitably qualified and registered SELECT or NICE electrical contractor confirming that the works are completed.
 - (e) To instruct a suitably qualified tradesman to investigate the cause of dampness in the property and to provide a report to the tribunal, to carry out any works recommended by the report and provide evidence that the works have been completed satisfactorily in order to show the house is wind and watertight and in all other respects reasonably fit for human habitation. The tribunal orders that the works specified in this order must be carried out and completed within a period of twenty eight days from the date of service of this notice.
4. The tribunal ordered that the work specified in the RSEO had to be carried out and completed within 28 days from the date of service of the RSEO.
5. On 7 September 2018 the ordinary member of the tribunal carried out a re-inspection of the property, after the time for completing the work specified in the order had expired.
6. The ordinary member found as follows:-
- (a) A smoke detector has been installed in the living room and a heat detector has been installed in the kitchen.
 - (b) A carbon monoxide detector has been installed in the kitchen.
 - (c) Although not submitted to the tribunal, an Electrical Installation Condition Report was present in the property. The report was prepared by Mr R Gordon of RMG Electrical and is dated 12 July 2018.
 - (d) Repairs have been carried out to the seal around the shower fitting and sections of the wall in the kitchen party wall with the shower room have been replastered.
 - (e) The electrical fuse box has been replaced.
7. Following upon the re-inspection the ordinary member confirmed the following:-
- (a) There is no evidence to confirm that the smoke and heat detectors have been installed satisfactorily and are in proper working order.
 - (b) There is no sign of a Landlords Gas Safety Certificate having been obtained.
 - (c) It was noted that the address of the provider of the Electrical Installation Condition Report stated on the EICR does not match the address stated on the firm's website.
 - (d) As the repairs to the kitchen wall have only been carried out recently, it is impossible to tell if the repairs to the shower room have resolved the problem, particularly as no specialist report (as requested) has been provided to the tribunal.

8. No further submissions were made by either party.
9. The tribunal proceeded to determine the question of whether or not the landlord has complied with the RSEO on the basis of the re-inspection report.
10. The landlord has not complied with the RSEO in particular:-
 - (i) There is no evidence to confirm that the smoke or heat detectors have been installed satisfactorily and are in proper working order.
 - (ii) There is no sign of a Landlords Gas Safety Certificate having been obtained.
 - (iii) The Electrical Installation Condition Report provided is considered to be unsatisfactory.
11. The cause of dampness in the property, particularly in the kitchen and shower room have not been satisfactorily investigated. No report by a suitably qualified tradesman has been provided to the Tribunal. The tribunal must serve notice of the failure on the Local Authority as required by Section 26(2) of the 2006 Act.
12. The tribunal decided to make a rent relief order in terms of Section 26(2)(b) of the 2006 Act.
13. The tribunal proceeded to consider the appropriate level of rent reduction.
 - (a) The short assured tenancy began on 19 August 2016.
 - (b) The tenant has experienced the repairs issues since the commencement of the tenancy.
 - (c) Despite numerous visits the repairs have not been concluded satisfactorily.
 - (d) The rent is £500 per calendar month.
14. Taking into account all the circumstances and with particular regard to the safety issues involved, the tribunal decided that an appropriate level of reduction was 90% of the rent payable for the remainder of the tenancy.

Right of Appeal

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

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.

M Thorley

Signed

.....
Chairperson

Date

..... 16.10.18

Housing and Property Chamber First-tier Tribunal for Scotland



PHOTOSHEET



Property: 7 QUARRY ROAD, PAISLEY, PA2 7RD

Ref no: FTS/HPC/RP/18/0726

Tribunal: Mark Thorley and David Godfrey

Inspection: The property was inspected at 11.30 am Monday 18th June 2018.

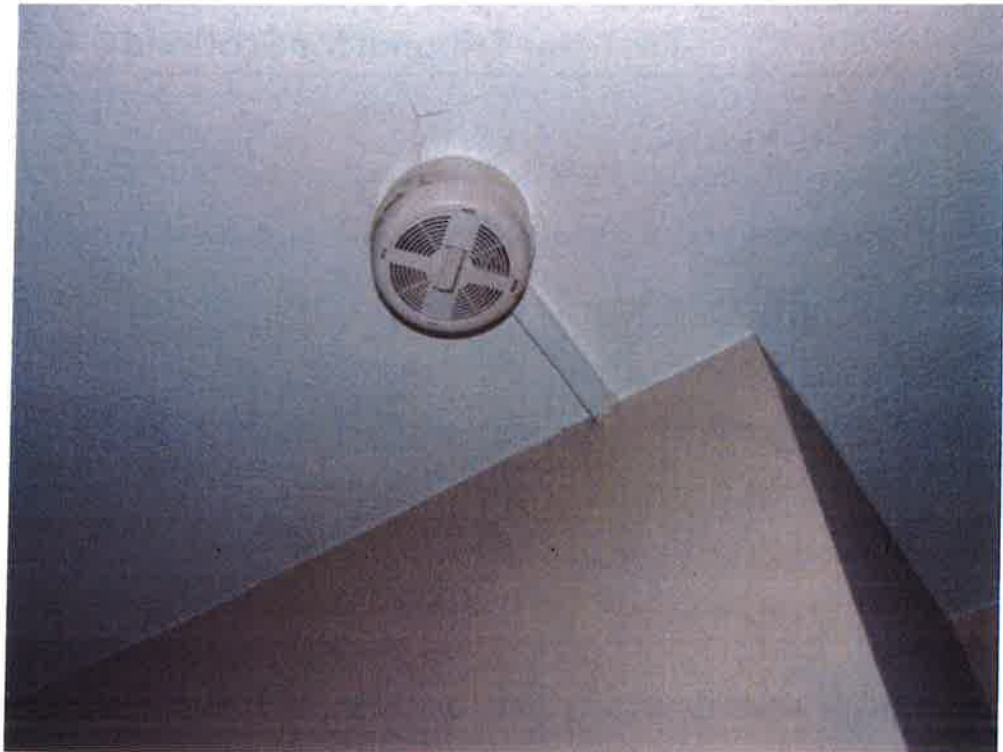
Access: The Tenant, Ms Leana Zaccarini was present and provided access to the property.

The Landlord, Mr David Blackwood was neither present nor represented.

The Third Party Applicant, Renfrewshire Council was represented by Elaine McIntosh

Photographs

1. Hall Smoke Detector
2. Kitchen Ceiling (No Heat Detector)
3. Living Room Ceiling (No Smoke Detector)
4. Central Heating Boiler (No Landlords Gas Safety Certificate available and no CO detector nearby)
5. Dampness in Kitchen (1)
6. Dampness in Kitchen (2)
7. Shower Lining
8. Fusebox



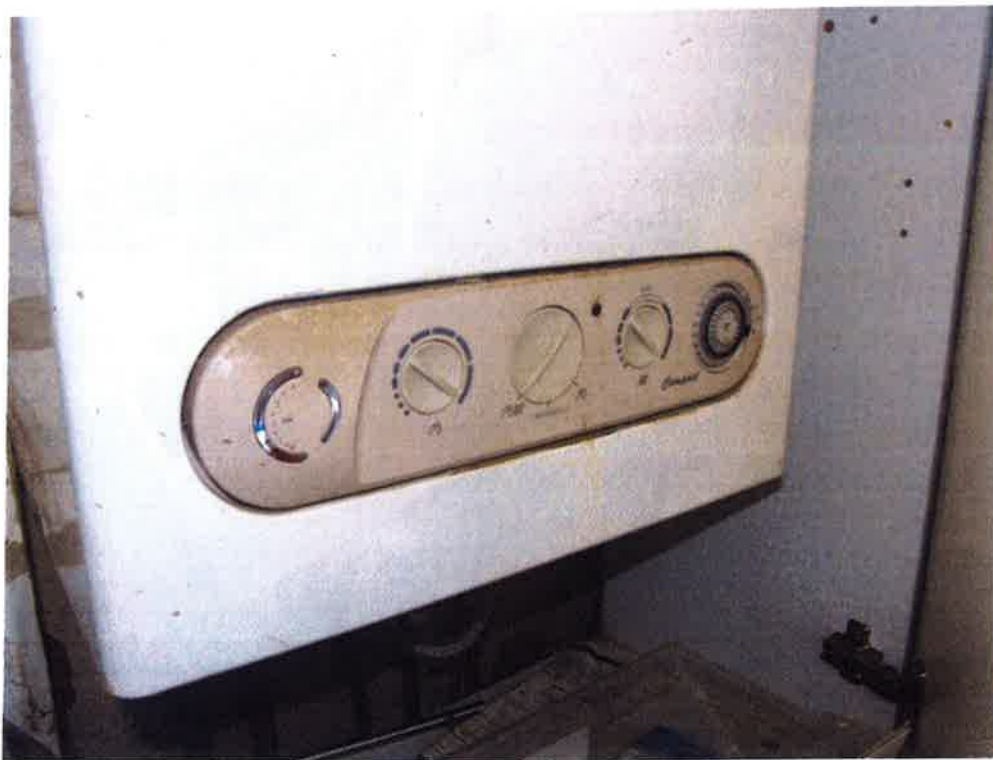
Hall Smoke Detector



Kitchen Ceiling (No Heat Detector)



Living Room Ceiling (No Smoke Detector)



Central Heating Boiler (No Landlords Gas Safety Certificate available and no CO detector nearby)



Dampness in Kitchen (1)



Dampness in Kitchen (2)



Shower Lining



Fusebox

David Godfrey, MRICS

18th June 2018