

# **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/RT/18/1182**

**Flat Basement Left, 292 Langside Road, Glasgow, G42 8XW  
("the Property")**

**The Parties:-**

**Mr Mark Demeter, formerly residing at the property  
("the former Tenant")**

**Glasgow City Council, Development and Regeneration Services, 3<sup>rd</sup>  
Floor Samaritan House, 79 Coplaw Street, Glasgow, G42 7JG  
("the Third Party")**

**Mr Naveed Shakoor, 133 Titwood Road, Glasgow, G41 4BN  
("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, 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>Donald Wooley</b>	<b>-</b>	<b>Ordinary Member (Surveyor)</b>

### **Background**

- 1. By application comprising documents received on 22 May 2018, the Third Party 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 Third Party stated that the Third Party considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and that the said failure was established as follows:-

- (a) "Holes in the flooring in the main hallway.
- (b) Ceiling light in the kitchen fitted but connected via an electric socket.
- (c) No Electrical Installation Condition Report (EICR) for the property.
- (d) No Gas Safe certificate for the property.
- (e) The Carbon Monoxide (CO) monitor did not function when the test button was pressed.
- (f) No shower curtain."

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

- (i) The house is wind and watertight and in all other respects reasonably fit for human habitation.
- (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) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
- (iv) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

Although the Third Party did not tick the box on the application form in respect of (iii) above, the tribunal opined that the complaint about the lack of shower curtain fell within this part of the repairing standard and that the Landlord had received intimation of this specific complaint prior to the present application being raised.

3. By Minute dated 31 May 2018 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 Third Party advising that the inspection and hearing would take place on 16 August 2018 at 10 am and 11.30 am respectively. The Third Party thereafter intimated that the Tenant had vacated the property. The tribunal considered that it was in the public interest that the application continue

and issued a Minute of Continuation to that effect. No submissions were received from the Landlord or the Third Party. The Third Party intimated that it did not wish to attend the inspection or the hearing.

### **The Inspection**

5. An inspection and hearing were arranged as noted above. The tribunal attended at the property. The Landlord was in attendance at the property. No one else attended at the property. The tribunal noted the following at inspection:-

- There were defective and broken floorboards located in the hallway at the doorway of bedroom one.
- The fluorescent ceiling light in the kitchen was fitted to and operated from an electrical wall mounted socket by way of a 13 amp plug.
- There was no EICR in respect of the property.
- There was no Gas Safe certificate made available to the tribunal in respect of the property.
- There was a monitor located below the boiler which may have been a CO monitor although this was unclear as there was no visible signage or labelling. It did not function when tested and was not positioned in accordance with current statutory guidelines.
- There was no shower curtain or any screening around the bath.
- There were smoke detectors in the hallway and living room of the property.
- There was a heat detector located in the kitchen of the property.
- The smoke and heat detection devices appeared to be hardwired and interlinked.

The schedule of photographs taken by the Ordinary Member of the tribunal at the inspection is attached to this decision.

### **The Hearing**

6. No one attended at the hearing. The Landlord had confirmed to the tribunal at the inspection that he did not intend to attend the hearing nor to be represented at the hearing.

The tribunal considered that it had sufficient information before it to make a decision and proceeded to make a decision based on its findings at the inspection together with the application.

### **Summary of the issues**

7. The issue to be determined is whether the repairing standard has been met in light of what the tribunal viewed at the inspection.

### **Findings of fact**

8. The tribunal finds the following facts to be established: -
- The Tenant had vacated the property and the property remained vacant at the time of inspection.
  - The property is a basement flat located within a traditional blonde sandstone tenement.
  - It comprises a hallway, kitchen, living room, two bedrooms and a bathroom.
  - The floor in the hallway was uneven, of varying construction and there was a hole in the floor at the entrance to bedroom one.
  - The ceiling light in the kitchen was powered directly from a socket in the kitchen.
  - The "CO monitor" was not clearly identifiable for the purposes of monitoring CO omissions. If that was its purpose, it was, in accordance with current Scottish Government guidelines, located in the wrong place and did not function.
  - There was no shower curtain located over the bathroom nor was there any form of effective shower screening located around the bath.
  - There was no EICR in place in respect of the property.
  - There was no Gas Safe certificate in place in respect of the property.

### **Reasons for the decision**

9. The tribunal noted that in terms of the present application the Third Party had first notified the Landlord of the repairs in March 2018. Despite attending to some of the issues raised, some of the repairs issues remained.

Given all of the circumstances, the tribunal is satisfied that: the house is not wind and watertight and in all other respects reasonably fit for human habitation as there is defective flooring located in the hallway; 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 Landlord could not produce an EICR nor a Gas Safe certificate in respect of the property and, without this, the tribunal could not conclude that this part of the repairing standard had been met; any fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order as there is no shower curtain nor any form of effective shower screening located around the bath; the property did not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health as, even if the attachment

located below the boiler was a CO monitor, its location does not comply with current regulations nor did it function when tested.

### **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.

### **Observations**

13. The tribunal noted at the inspection that the Landlord was in the process of having repairs carried out to the property. It would urge the Landlord to complete these as soon as possible to ensure that the property meets the repairing standard.

### **Right of Appeal**

14. 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

P Pryce

Signed  
Date

.....  
16 August 2018

  
..... Legal Member

**Basement Left, 292 Langside Road, Glasgow, G42 8XW**  
**Schedule of Photographs taken at the Inspection on 16<sup>th</sup> August 2018**



**1&2:- Entrance & External Elevations**



**3 & 4 :- Entrance hall flooring**



**5:- Kitchen Fluorescent light**



**6:- Power source for kitchen light**



**7.**

**Alleged CO monitor located below and attached to boiler**



**8.**

**Wall mounted shower with no surrounding screen or curtain**

# **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/RT/18/1182**

**Land Register Number: GLA209381**

**11/1 Cathcart Place, Edinburgh, EH11 2HD  
("the House")**

**The Parties:-**

**Mr Mark Demeter, formerly residing at the property  
("the former Tenant")**

**Glasgow City Council, Development and Regeneration Services, 3<sup>rd</sup> Floor  
Samaritan House, 79 Coplaw Street, Glasgow, G42 7JG  
("the Third Party")**

**Mr Naveed Shakoor, 133 Titwood Road, Glasgow, G41 4BN  
("the Landlord")**

Whereas in terms of their decision dated 16 August 2018, 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:-

- (i) The house is wind and watertight and in all other aspects reasonably fit for human habitation.
- (ii) Any fixtures, fittings and appliances provided by the landlord under the tenancy 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.

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 repair or replace the floor in the hallway to ensure that it is in a reasonable state of repair and in proper working order.
- (b) To produce an Electrical Installation Condition Report from a SELECT, NICEIC or NAPIT registered electrician in respect of the property and to undertake any work which is identified in said report to be of Category C1 or C2.
- (c) To produce a Gas Safe certificate from a Gas Safe registered engineer in respect of the property.
- (d) To install a shower curtain or suitable screening around the shower fitting located in the bath so that it is in a reasonable state of repair and in proper working order.
- (e) To install satisfactory provision for the detection of carbon monoxide levels ensuring that such detection is located in accordance with current regulations.

The Tribunal order that the works specified in this Order must be carried out and completed within the period 28 days 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 16 August 2018 in the presence of the undernoted witness:-

N Pryce

P Pryce

\_\_\_\_\_  
witness  
NICHOLAS PRYCE name in full  
55 DLYTHWOOD ST Address  
GLASGOW

\_\_\_\_\_  
Legal Member