

Housing and Property Chamber
First-tier Tribunal for Scotland



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

STATEMENT OF DECISION OF THE TRIBUNAL UNDER SECTION 24(1) OF THE HOUSING (SCOTLAND) ACT 2006

In connection with

Property at 9 Sainford Crescent Falkirk, FK2 7QE ("the Property"), being subjects registered in the Land Register of Scotland under Title Number STG49450

Case Reference FTS/HPC/RT/23/0189

The Parties: -

- a) Falkirk Council, per their employee, Mr. Craig Beatt, Private Sector Officer (Enforcement and Liaison), Callander Business Park, Falkirk, FK1 1XR, as third party applicant in terms of section 22(1A) of the Act ("the Third Party Applicant") and
- b) Mr Raja Saddique, residing at 12 Raeburn Road, Larbert, FK5 4GU ("The Landlord"), and
- c) Mr Arif Khan and Mrs Rehana Kauser, residing at 9 Sainford Crescent Falkirk, FK2 7QE ("The Tenants")

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) of the Housing (Scotland) Act 2006 ("the 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 Act, and has determined to make a Repairing Standard Enforcement Order ("RSEO").

The Tribunal comprised: -

Mr. Andrew Cowan, Legal Member, and
Mr. Mike Links, Ordinary Member (Surveyor)

Background

1. By application dated 19th January 2023 (hereinafter referred to as "the application") the Third Party Applicant applied to the Tribunal for determination as to whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

2. The Application stated that the Third Party Applicant considered that the Landlord had failed to comply with the duty to ensure the House meets the Repairing Standard and, in particular the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

13(1) c. The installations in the house for the supply of water, gas and electricity and sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;

13(1) d. Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order;

13(1) g. The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

13(1) h. The house meets the tolerable standard.

3. The Third Party Applicant has stated, within the application, details as to why they consider the Landlord has failed to meet the Repairing Standard. By letter, dated 3rd November 2022, the Third Party Applicant had intimated to the Landlord a list of defects which they consider the Landlord required to repair in order to bring the Property up to the Repairing Standard. A summary of the issues brought forward by the Third Party Applicant, which have been intimated to the Landlord, are:-

General

- a. The Landlord has not exhibited an Electrical Installation Completion Certificate ("EICR") in relation to the Property
- b. The Landlord has not exhibited a valid Gas Safety Certificate from a registered Gas Safe Engineer in relation to the Property
- c. The Landlord has failed to fit smoke and heat detectors in accordance with existing Scottish Governance statutory guidelines.

Specific Issues in rooms of the Property

Living Room

- Repair/replace double electrical socket behind sofa, as not working (if anything is plugged in here it trips the consumer unit)

Kitchen

- At time of visit, water was cascading through the light fittings as tenant had used the shower in the bathroom directly above (witnessed by two council officers)
- Repair/replace UPVC ceiling as water damaged and bowed
- Repair/replace light fittings as they are water damaged
- Repair electrical sockets as only one is working and if others are used, they trip the consumer unit

Utility Room

- Provide a carbon monoxide detector
- Repair/replace taps at sink as when turned on water leaks from top of fittings
- Repair water leak below sink
- Repair leaking boiler

Bathroom

- Investigate cause of extensive water leak into kitchen below when shower or bath is used
- Reseal around bath
- Repair/replace loose bath panel

Bedroom 1

- Repair/replace loose/broken section of floorboards at door entrance
- Repair loose/broken section of floorboards at either side of bed

Bedroom 2

- Repair/replace double electrical socket on rear wall (left side) as only one socket is working

4. This application was accepted by the Chamber President on 8th March 2023 and was referred for the Tribunal's consideration.
5. By letter dated 13th April 2023 issued to both parties the Tribunal advised they would inspect the property on 18th May 2023 at 10am. A hearing would then be held at 1400 on the same date at the Glasgow Tribunal Centre, Room 112, 20 York Street, Glasgow, G2 8GT.

Property Inspection

6. The Tribunal inspected the property on 18th May 2023. The Tenants were present at the time of the inspection The Landlord and the Third Party Applicant did not attend the inspection. Photographs were taken during the inspection by the Tribunal. Copies of the photographs taken by the Tribunal are attached as a schedule to this report.

The Hearing

7. A hearing had been intimated to all parties and was held at 1400 on 19th May 2023 at the Glasgow Tribunal Centre, Room 112, 20 York Street, Glasgow, G2 8GT.
8. The following parties attended the hearing:
 - a. Mr. Craig Beatt, representing the Third Party Applicant, and

b. Mr. Raja Saddique, the Landlord

Mr. Saddique was accompanied by Mr. Zohaib Arshad.

9. At the start of the hearing the Tribunal outlined their observations from their inspection of the property. By reference to the specific list of complaints raised by the Third Party Applicant in relation to each room in the property, the Tribunal had noted:-

General

- The Tribunal noted that smoke detectors were now fitted throughout the Property, in accordance with current guidance. These detectors were tested and found to be functioning correctly and were interlinked.
- The Tribunal could not be satisfied that the detector fitted in the kitchen of the property was a heat detector as required by current guidance.

Living Room

- a) The double electrical socket behind sofa, had been repaired and appeared to be working.

Kitchen

- b) The UPVC ceiling in the kitchen had been damaged by water pouring in from the bathroom above. The UPVC ceiling was bowed as a result of water damage. The UPVC ceiling was not in a reasonable state of repair.
- c) The light fittings in the kitchen showed evidence of water damage. The Tribunal were concerned that, as a consequence of water damage, these light fittings may not be safe to use. The light fittings were not in a reasonable state of repair.
- d) The electrical sockets were not all operational. The tenant had led an electrical extension from an adjoining room into the kitchen to allow kitchen appliance to be operated. The Tribunal were concerned that, as a consequence of water damage, the kitchen sockets may not be safe to use. The electrical sockets in the kitchen were not in proper working order.

Utility Room

- e) The Tribunal noted that a wall mounted carbon monoxide detector was located immediately adjacent to the boiler in the utility room. The location of this carbon monoxide detector does not comply with current Scottish Government Statutory Guidance which states that "CO detectors in the space containing the combustion appliance should be sited between 1 and 3 meters from the appliance". Accordingly, the Tribunal determined that the Landlord has failed to comply with the Repairing Standard in relation to this matter.
- f) The Tribunal noted that the sink in the utility room of the Property is not in a reasonable state of repair. When operated the taps on the sink leak, such that water projects from top of the mixer tap. As a consequence, water is leaking below the sink.
- g) The Tribunal noted that the boiler in the utility room loses water pressure at a fast rate. As a consequence, the boiler requires to be repeatedly repressured to allow it to be operational. The boiler/central heating system is believed to be leaking. The boiler/heating system is not in a reasonable state of repair or in proper working order.

Bathroom

- h) The Tribunal noted that the bath in the property is not in a reasonable state of repair or in proper working order. A shower unit is located over the bath, When the bath or shower are used, extensive water flows under the bath and into the kitchen below the bathroom (causing damage to the kitchen as referred to above). The bath panel is broken and insecure.

Bedroom 1

- i) The Tribunal noted that there are missing or broken sections of floorboards at the entrance to the main bedroom and below the window of the room. As a result the flooring is uneven and presents a potential tripping hazard. The flooring in this bedroom of the property is not in a reasonable state of repair.

Bedroom 2

- j) The Tribunal note that the electrical socket on rear wall (left side) appeared to be operational and in proper working order.

The Tribunal noted that the Landlord had now exhibited a current gas safety certificate for the property. He had not exhibited a current electrical safety certificate.

10. The Landlord accepted the Tribunal's observations and did not seek to challenge their views following the inspection. Whilst the Landlord indicated that he was of view that some of the damage in the property was caused by the fact that the Tenants had allowed the property to become overcrowded, he nonetheless accepted that the Property did not meet the Repairing Standard. The Landlord confirmed that he recognised that works were required to repair the issues identified by the Tribunal and to bring the property up to the Repairing Standard.
11. The Landlord accepted that he should provide an EICR in relation to the property, once all other required works were completed.
12. The Landlord explained to the Tribunal that he had attempted to carry out repairs at the Property, but that the Tenants would not allow him reasonable access to carry out the extensive repairs which would require a number of visits by contractors to the property. Mr Beatt confirmed that the local authority would attempt to assist the Landlord in gaining the necessary access by communicating with the Tenants in relation to extent of the works and the necessary access required.

Findings in Fact

13.

- a) The Landlord and the Tenants are parties to a tenancy agreement in respect of the Property at 9 Sainford Crescent Falkirk, FK2 7QE.
- b) The double electrical socket in the living room of the Property is in proper working order.
- c) The UPVC ceiling in the kitchen has been damaged by water and is not a reasonable state of repair.
- d) The light fittings in the kitchen are not in a reasonable state of repair.
- e) The electrical sockets in the kitchen are not in proper working order.
- f) The location of the carbon monoxide detector in the property does not comply with current Scottish Government Statutory Guidance

- g) The sink tap in the utility room of the Property is not in a reasonable state of repair.
- h) The boiler/central heating system in the property is not in a reasonable state of repair or in proper working order.
- i) The bath in the property is not in a reasonable state of repair or in proper working order.
- j) The flooring in the main bedroom of the property is not in a reasonable state of repair.
- k) The Tribunal noted that the electrical socket on the rear wall (left side) of the small bedroom of the property is in proper working order.

13. The Property does not currently meet the Repairing Standard and in particular the Landlord has failed to comply with subsections (c),(d),and (g) of Section 13(1) of the Act .

Reasons for Decision

14. Having inspected the Property, the Tribunal were satisfied that the Property did not meet the Repairing Standard in relation to those matters observed by the Tribunal and as narrated at Paragraph 9 above.

Decision

15. The Tribunal accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

16. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act. In particular the Tribunal determined to require the Landlord to

- a. Provide a Domestic Electrical Installation Condition Report in respect of the Property with evidence that it was carried out by a suitably qualified and registered SELECT, NAPIT or NICEIC electrical contractor, along with written evidence from the contractor who carries out that report (or another suitably qualified contractor) that the fire detection equipment which has now been installed in the kitchen of the property complies with the current Scottish Government statutory guidance for the satisfactory provision for the detection and warning in the event of a fire and suspected fire and current building regulations.
- b. Repair the UPVC ceiling in the kitchen so that it is in a reasonable state of repair.
- c. Repair or replace the light fittings in the kitchen so that they are safe and in a reasonable state of repair and in proper working order.
- d. Repair or replace all of the electrical sockets in the kitchen so that they are safe and in a reasonable state of repair and in proper working order
- e. Reposition the wall mounted carbon monoxide detector in the Utility Room of the Property so that it complies with current Scottish Government Statutory Guidance.
- f. Repair the tap on the sink in the utility room, so that it is and in a reasonable state of repair and in proper working order.

- g. Service and repair the boiler/central heating system so that it is in a reasonable state of repair or in proper working order.
- h. Repair or replace the bath in the property, so that it is watertight and is in a reasonable state of repair or in proper working order.
- i. Repair the flooring in the main bedroom, so that it is in a reasonable state of repair.

17. The Tribunal order that the works specified in the RSEO must be carried out and completed within the period of 2 months from the date of service of this Notice.

18. The decision of the Tribunal is unanimous.

Right of Appeal

19. 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.

Right of Appeal

20. 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.

A Cowan

Chairperson
Andrew Cowan

Date 22nd May 2023

Housing and Property Chamber
First-tier Tribunal for Scotland



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

SCHEDULE OF PHOTOGRAPHS

ADDRESS: 9 Sainford Crescent, Falkirk FK2 7QE

DATE: 18th May 2023

REFERENCE: FTS/HPC/RT/23/0189



FRONT ELEVATION



REAR ELEVATION



LIVING ROOM – SMOKE DETECTOR



KITCHEN – SMOKE/HEAT DETECTOR



UTILITY ROOM – GAS BOILER



CO MONITOR ADJACENT TO BOILER



UTILITY ROOM SINK – TAPS LEAKING



DAMP BENEATH SINK



LEAK IN KITCHEN CEILING AT LIGHT



DAMP ON KITCHEN FLOOR



KITCHEN SOCKET-NOT WORKING



LANDING CEILING SMOKE DETECTOR



BROKEN BATH PANEL



BATH SEALS



UNEVEN FLOORING IN BEDROOM



ELECTRIC CONSUMER UNIT.

Mr M LINKS

ORDINARY MEMBER (SURVEYOR)

HOUSING AND PROPERTY CHAMBER

DATE 19th May 2023