

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



**STATEMENT OF DECISION FOR REPAIRING STANDARD ENFORCEMENT
ORDER (RSEO) UNDER SECTION 24 HOUSING (SCOTLAND) ACT 2006.**

Chamber Ref: RT/19/3434

THE PROPERTY:

156 Gartcraig Road, Glasgow G33 2SW

Title Number: GLA130580

THE PARTIES:

Glasgow City Council, DRS Housing Services per Ms Toni Coyle, Exchange House, 231 George Street, Glasgow G1 1RX. ("third party applicant")

Mr Brian Timoney & Mrs Pamela Timoney, residing at the property. ("the tenants")

and

Mr Stephen McCullagh, 105 Gartcraig Road, Glasgow G33 2RY ("the landlord")

THE TRIBUNAL:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (formerly the Private Rented Housing Committee (PRHC):

David M Preston (Chairman) and Mr Donald Wooley, Surveyor (Ordinary Member)

Decision:

The tribunal, having made such enquiries as are fit for the purposes of determining whether the landlords had complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as

“the Act”) in relation to the property, and taking account of the representations by all parties:

- a. Determined that the landlord had failed to comply with the said duty; and**
- b. Determined to issue a Repairing Standard Enforcement Order (RSEO) under section 24(2) of the Act.**

The tribunal orders that the works specified in this Order must be carried out and completed within the period of three weeks from the date of service of this Notice.

Background:

1. By application lodged on 28 October 2019, the third party applicant 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 stated that the third party applicant considered that the landlord had failed to comply with his duty to ensure that the house meets the repairing standard at the start of the lease and throughout its duration and in particular that the landlord had failed to ensure that:-
 - Any fixtures, fittings and appliances provided by the landlords under the tenancy are in a reasonable state of repair and in proper working order.
 - The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration which is hazardous to health.
3. In particular the third party applicant complained that:
 - a. The radiator in the bedroom requires to be repaired or replaced leaking and resulting in the carpet being wet;
 - b. An Electrical Installation Condition Report (EICR) had not been provided;
 - c. The property does not have provision for ventilation (windows not fitted with vents);
 - d. The property does not have sufficient heat detection;
 - e. The property does not have sufficient smoke detection;
 - f. The property does not have sufficient carbon monoxide detection and/or the detector had been fitted in the wrong place;
4. By Minute of Decision dated 13 November 2019, a legal member of the Tribunal, having delegated power for the purpose, referred the application under Section

23(1) of the Act to the tribunal. In terms of the Minute the application paperwork comprises documents received by the Tribunal on or between 28 and 29 October 2019.

5. A Notice of Referral, Inspection and Hearing under and in terms of Schedule 2, Paragraph 1 of the Act was served on all parties on 27 November 2019.
6. Following service of the Notice of Referral written representations were received from the landlords by emails dated 18 December 2019 and 8 January 2020. Written representations were received from the tenant by email on 20 December 2019. No further representations were received from the third party applicant.

Inspection:

7. The tribunal inspected the property on the morning of 9 January 2020. A relative of the tenant, Mr David Calder, was in attendance to provide access for the tribunal and throughout the inspection. The landlord did not attend the inspection due to other commitments.
8. The property is a main door ground floor cottage flat within a two storey block of four similar units originally built by and on behalf of the local Authority. Estimated to have been constructed in the 1950s, the outer walls are of brick or block design with an insulated lathe render and the roof is pitched, clad with concrete tiles. The accommodation may be described as comprising, entrance hall, living room, 2 bedrooms, kitchen and bathroom.
9. In respect of the items complained of the inspection revealed:
 - There were no trickle vents in the windows, but they all were capable of being opened appropriately to provide ventilation throughout the property. The tribunal did not consider that the property failed to meet the repairing standard in this regard and makes no finding.
 - The tribunal noted that there was a ceiling mounted heat or smoke detector in the living room and a similar wall mounted device in the kitchen.
 - The tribunal noted that there was a carbon monoxide detector fitted to the living room ceiling. The living room contained no combustible fittings, while gas boiler was situated in the kitchen where there was no detector.
 - The tribunal noted that there were what appeared to be smoke and heat detectors fitted to the ceiling in the hallway.
 - All of the devices were separately tested and established to be operational. They appear to be battery operated although were not inter-connected and the heat detector in the kitchen is not ceiling mounted

- The tribunal inspected the floor and carpet around the radiator but found no evidence of wet floor or carpet apart from old damp staining on the floor which was established to be dry
10. A series of photographs was taken throughout the inspection and form the Schedule attached hereto.

Hearing:

11. Following the inspection of the property the tribunal held a hearing at Glasgow Tribunals Centre. Neither the landlord nor the tenant was present or represented. Ms Coyle appeared on behalf of the third party applicant.
12. At the start of the hearing the convener confirmed the procedure which it was intended to be followed.
13. Ms Coyle advised that she had carried out the second inspection of the property on 24 September 2019 and had noted that the carbon monoxide detector, which had been missing at the first inspection, had been fitted in the wrong room. The landlord had been advised but had not corrected the error.
14. Ms Coyle confirmed that the windows were all in working order and could be opened appropriately to provide adequate ventilation to the property.
15. Ms Coyle confirmed that she had seen the wet carpet in the vicinity of the radiator but believed that it had been attended to.
16. The tribunal noted the gas safe certificate dated 25 July 2019 which was satisfactory.
17. The tribunal noted the EICR dated 7 January 2020 had been submitted by the landlord with his email of 8 January 2020. While the Report indicated that the installation was satisfactory, item 13.4.3 of the Inspection Schedule was marked as C2, ie in unacceptable condition.

Reasons for the decision:

18. In reaching its decision the tribunal had regard to:
- a. The application, including the accompanying documents, as enumerated numbers 1 – 27 on the Index Sheet lodged with the application;
 - b. Landlords' representations dated 18 December 2019 and 8 January 2020;
 - c. Tenant's representations of 20 December 2019.
19. In his email dated 8 January 2019 the landlord said that double glazing had been fitted in 2006 and he understood that it had complied with building regulations.

20. From its inspection, the tribunal was satisfied that the property failed to meet the repairing standard in relation to the issues detailed in the application in the following respects:

- a) The carbon monoxide detector is fitted in the wrong room;
- b) The detectors are not interlinked and in part wrongly located
- c) The EICR is unsatisfactory in respect of item 13.4.3 of the Inspection Schedule.

21. The tribunal therefore determined to issue a Repairing Standard Enforcement Order and considered that a period of three weeks for the work to be completed was a reasonable time.

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.

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.

D Preston

16/1/2020

Glasgow 16 June 2020

This is the Schedule referred
to in the previous Statement
of D Preston

156 Gartcraig Road Glasgow G33 2SW

Schedule of Photographs taken at the inspection on 9th January 2020

D Preston



(1) Front Elevation



(2)



(3)

Photographs 2 & 3 - windows with casement & top hung openings for ventilation



(4)



(5)

Photographs 4&5 - Heat detection units kitchen & living room



(6) Heat / smoke detectors hall



(7) "CO detector" living room ceiling



(8) Old Damp staining at rear bedroom radiator



(9) No significant damp reading at rear bedroom radiator (8%)



(10)



(11)

Photographs 10 & 11– Opposite end of radiator no significant damp reading (8%)



(12)



(13)

Photographs 12 & 13 – Front bedroom radiator no visible sign of damp