

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Determination: Housing (Scotland) Act 2006: Section 27**

**Chamber Ref: FTS/HPC/RT/22/0284**

**IB Wardrop Street, Paisley, PA1 2JA registered in the Land Register of Scotland under Title Number REN42221 (“the Property”)**

**The Parties:-**

**Renfrewshire Council, Cotton House, Paisley, PA1 1BR (“the Third Party Applicant”)**

**Ms Tracey Russell, 1B Wardrop Street, Paisley, PA1 2JA (“the Tenant”)**

**Mr Ian Tennie, 63 Victoria Road, Paisley, PA2 9PT (“the Landlord”)**

**Tribunal Members:**

**Mr Martin McAllister, Solicitor (Legal Member) and Mr Donald Wooley, Chartered Surveyor (Ordinary Member)**

**Decision**

**The tribunal made a repairing standard enforcement order in terms of Section 24(2) of The Housing (Scotland) Act 2006.**

**Background**

1. By application dated 1<sup>st</sup> February 2022, the Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (the 2006 Act). The application is in terms of Section 22 (1) of the 2006 Act (“the 2006 Act.”)
2. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: that the House is not wind and watertight and in all other respects reasonably fit for human habitation, that the installations in the Property 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, that the Property does not have satisfactory provision for detecting fires and for giving warning in the event of suspected fire and that the Property does not meet the tolerable standard. Specifically, the application states that the Landlord has failed to provide an electrical installation inspection report (EICR), that there were no smoke/ heat detectors installed in the Property, the hot water tap in the kitchen is defective and does not allow an adequate flow of water, that the electric shower is defective and frequently trips the circuit breaker when in use, that there is pigeon waste in the loft space and there is a large hole in the ceiling of a bedroom.

3. On 21<sup>st</sup> February 2022, a Notice of Acceptance was issued by a legal member of the Tribunal acting under delegated powers of the Chamber President.
4. On 29<sup>th</sup> March 2022, the Tribunal issued a Direction under Regulation 16 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Regulations") requiring the Landlord to produce an EICR (including PAT testing) and a copy of the tenancy agreement.
5. Neither the tenancy agreement or the EICR has been submitted in response to the said Direction.

### **Property Inspection**

6. The members of the tribunal inspected the Property on 21<sup>st</sup> April 2022 and a copy of the ordinary member's Pre-hearing inspection summary and schedule of photographs is attached to this Decision. It is referred to for its terms.

### **The Hearing**

7. A Hearing was held by audioconference on 27<sup>th</sup> April 2022. The Applicant was represented by Mr Martin Salisbury, an officer of Renfrewshire Council and the Landlord was neither in attendance nor represented. The Tenant was not present.
8. Mr Salisbury was asked to comment on the pre hearing inspection report. He said that the findings in the report were consistent with what he had found when he inspected the Property in 2021.
9. Mr Salisbury said that, when he had inspected the Property, he had been advised by the Tenant that the gas boiler had been serviced. He said that he had not had sight of a Gas Safety Certificate.

### **10. Findings in Fact**

- 10.1 The Tenant and Landlord are parties to a tenancy for the Property.

- 10.2 The Landlord has not provided the Tenant with an electrical installation condition report or any Portable Appliance Test Certification (PAT) in relation to any electrical appliances originally provided by the landlord.
- 10.3 Neither the third party applicant nor the tenant's daughter, who provided access to the Tribunal, are aware if there is a valid and satisfactory gas certificate in relation to the property and none was visible during the inspection.
- 10.4 The Property does not have satisfactory provision for detecting fires and for giving warning in the event of suspected fire.
- 10.5 The loft area of the Property contains pigeon droppings.
- 10.6 There is a hole in the ceiling of one of the bedrooms.
- 10.7 The hot water tap in the kitchen is defective.
- 10.8 There is damage to the plaster of the ceiling of the upper hallway.

## **Reasons**

11. The tribunal did not have a full copy of the tenancy agreement but it did have a copy of what appeared to be the last page of a short assured tenancy agreement which had been signed by the Landlord and the Tenant and which is dated 21<sup>st</sup> December 2014.
12. The tribunal relied on what it had seen at the inspection with regard to the condition of the Property and which is detailed in the attached Pre-hearing inspection summary and schedule of photographs.
13. The tribunal had directed the Landlord to provide the appropriate electrical installation condition report and PAT testing documentation for any portable appliances supplied by the Landlord. The documents were to be provided by 15<sup>th</sup> April 2022 and the Landlord has not done so.
14. At the Inspection, the tribunal had tried the hot water tap and had found that it was not functioning properly and that it provided an inadequate flow of water.
15. The members of the tribunal had been shown a bedroom where there was a significant hole in the ceiling allowing sight of the loft where pigeon droppings were evident. It seemed likely to the tribunal that such droppings would be present throughout the loft area. The condition of the room was such that the tribunal formed the view that it was uninhabitable and the Tenant's daughter who was present at the inspection confirmed that the room had not been able to be used for some years.

16. In addition to the matters referred to in the application, the tribunal noticed damage to the upper floor ceiling plaster and this is shown in photograph 11 of the attached report.
17. It is a requirement of landlords to comply with the regulations in relation to gas and electrical systems because of the clear health and safety implications. In the case of the Property, the members of the tribunal were concerned at the lack of the EICR and that the Landlord has not responded to the Direction which had been served on him.

## **Disposal**

18. The tribunal determined that a repairing standard enforcement order (RSEO) be made in the following terms;

The Landlord is required to:

- 18.1 Produce a current Electrical Installation Condition Report (EICR) for the Property and PAT testing certificates in respect of those electrical appliances provided by the landlord. The Reports require to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category.**
- 18.2 Install smoke detectors within the living room, hall and upper floor landing and a heat detector in the kitchen, ensuring that they are all interconnected, fully functional and meet the requirements contained within the Housing (Scotland) Acts 1987 and 2006, as subsequently amended by the Modification of the Repairing Standard Regulations 2019.**
- 18.3 Produce a report from a suitably qualified Gas Safe Registered engineer, supported by a valid and satisfactory gas safety certificate, confirming that the boiler, providing hot water to all relevant fittings in the property, is in proper working order and that there is an appropriate volume and supply of hot water to both the kitchen and bathroom. Any recommendations contained within the report regarding hot water supply issues to these areas should be addressed and repaired by an appropriate contractor.**
- 18.4 Instruct a suitably qualified contractor to repair and or renew the defective ceiling plaster within the second bedroom, removing all associated debris and pigeon droppings around and above the affected**

**area and throughout the loft to a standard compliant with current health and safety requirements.**

**18.5 Complete any necessary redecoration required within the property as a consequence of complying with the terms of the RSEO.**

**The Landlord is required to comply with the RSEO before 15<sup>th</sup> June 2022.**

**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.**

M J McAllister

Martin J. McAllister,  
Legal Member  
28<sup>th</sup> April 2022