

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 Section 24(1) ('the Act')

Chamber Ref: FTS/HPC/RP/18/1221

Property at 3/2, 15 Gallowflat Street, Rutherglen Glasgow G73 3DX

Land Register Title Number LAN 50093

('The Property')

The Parties:

Mr Stephen Murphy, 3/2, 15 Gallowflat Street, Rutherglen, Glasgow G73 3DX

('the Tenant')

Mr Alasdair Laurenson and Mr Robert Laurenson, c/o Slater Hogg and Howison, 10 Brouster Gate,
East Kilbride G74 1LD

('the Landlord')

The Tribunal Members:

Joseph C Hughes (Legal Member)

Lori Charles (Ordinary Member/ Surveyor)

DECISION:

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14(1) (b) in relation to the Property, determined the Landlord has failed to comply with the duty imposed by Section 14(1) (b) of the Act.

Background:

1. By Application (undated) the Tenant applied to the First-tier Tribunal for Scotland (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'). The Application was received on 23rd May 2018.

2. The Application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the Property meets the Repairing Standard. The Tenant brought forward the following alleged breaches:

- (i) Washing machine unusable;
- (ii) Kitchen sink needs proper support;
- (iii) Kitchen strip light needs to be repaired;
- (iv) Gas safety report needs to be verified;
- (v) Boiler needs to be safety checked;
- (vi) Suitability of electric heater in the living room needs to be established;
- (vii) Condition of windows needs to be assessed for wind tightness;
- (viii) Paint tins, tiles etc to be removed from overhead cupboards in the living room;
- (ix) Bath handle broke;
- (x) Bedroom roller blinds needs to be replaced;
- (xi) Unstable coffee table needs to be removed;
- (xii) Scrap wood needs to be removed.

3. The Tenant considered that the Landlord is in breach of their duty under the Housing (Scotland) Act 2006 in relation to the Repairing Standard and in particular the Landlord has failed to ensure that:

- (c) The installations in the house;
- (d) Any fixtures, fittings and appliances; and
- (e) Any furnishings provided by the landlord.

4. By Minute dated 31st May 2018 the Convener of the First-tier Tribunal for Scotland (Housing and Property Chamber), with delegated powers under Section 96 of the Housing (Scotland) Act and Section 21(8A) of the Act, made a Decision to Refer the Application to a tribunal in terms of Section 23(1) of the Housing (Scotland) Act 2006.

5. On 3rd July 2018 the tribunal wrote to the Landlord to advise that the tribunal intended to inspect the property on 21st August 2018 at 10am with a Hearing at 11.30am. The Landlord did not lodge any written submissions.

The Inspection:

6. An Inspection and Hearing was arranged for 21st August at 10am and 11.30am respectively. The tribunal attended at the property for the purposes of inspecting the property. The Landlord's Agent, Mr John Hempstead (Team Leader) and Ms Lynsey Alston (Property Manager) were present. Access was given to the property. The Tenant/Applicant was in attendance along with his partner Ms Yue Ling Chen who is Joint Tenant of the property. The Tenant cooperated throughout the Inspection. Ms Holly Brown attended as the Clerk to the Tribunal.

7. At the Inspection the tribunal noted the following points:

(a) The property is a top floor flat comprising one bedroom, hall, lounge, kitchen and bath room;

- A new washing machine has been installed;
- The kitchen sink and drainer unit is not attached to base and is not supported ;
- The kitchen strip light needs to be repaired/replaced;
- The living room gas fire is inoperable;
- There is a small electric wall-mounted convector heater installed at the external bay window within the living room. This is a 2 kw 220-240 v heater. This is the only source of heating within the living room. The replacement heater does not have sufficient output to heat the room;
- The windows in the flat appear to be the original double-glazed units. It was noted the rubber seals around the window has perished in parts and the timber frame requires maintenance. No evidence was noted during the Inspection of condensation between the sealed double-glazing unit. A photograph provided to the Landlords and the tribunal does indicate the sealed glazed units have failed;
- Paint tins, tiles etc were stored within the upper cupboards within the living room;
- Mixer tap shower fitted instead of an electric shower. A bath handle is broken. This is potentially hazardous. The mechanical extract fan has been fitted within bathroom. This was tested during inspection and is operational;
- A new bedroom roller blind has been fitted;
- A broken down coffee table is stored under the sofa in the living room;
- There is scrap wood stored in the hall area.

A Schedule of Photographs taken during the Inspection by the Ordinary Member is attached to this Statement of Decision and executed as relative hereto.

The Hearing:

8. The Hearing took place at Glasgow Tribunals Centre, Room 109, 20 York Street, Glasgow. Everyone who attended the property inspection attended the Hearing and provided some further background information about the property. The tribunal had before it the Application and other documentation. The tribunal also had the Land Certificate GLA 50093 relative to the property which

is registered in the names of the two named Landlords together with another individual called Scott Smith MacColl.

The tribunal noted:

(a) This property was leased out as an unfurnished tenancy.

(b) At the outset of the Hearing Mr Hempstead confirmed that on behalf of the Landlord he accepted the following issues:

(i) the work top (sink and drainer unit) requires to be properly secured and supported;

(ii) the broken light in the kitchen needs to be repaired/replaced;

(iii) one of the bath handles needs to be repaired/replaced.

(iv) a wall socket in the kitchen (which it is accepted is not part of the Application) needs to be repaired/replaced; and

(v) the removal of the following items is not disputed by the Landlord and will be arranged with the Tenant, namely the Christmas tree and the shower hose within the upper cupboards in the living room, all left over wood in the hallway and the broken down coffee table under the sofa in the living room.

Mr Hempstead indicated that the Landlord would not undertake at this stage to remove the paint tins. The tribunal has no jurisdiction in this matter but allowed parties to exchange views in the hope of reaching a resolution. For completeness the tribunal is unable to legislate in respect of the contents of the upper cupboards and the coffee table within the living room and the scrap wood in the hall. These matters are not governed by the Repairing Standard.

The electric light within the kitchen was not operative. This issue was not raised by the Tenant within his Application but will be attended to by the Landlord.

The following items were lodged at the Hearing [Copies are appended to this Decision]:

(A) A Gas Safety Record for the Property dated 11th April 2018. This confirmed the fire within the living room was isolated from gas. No Adverse issues noted therein;

(B) An Invoice dated 9th May 2018 in respect of the gas fire within the living room from R29 Compliance Ltd; and

(C) A quotation dated 25th July 2018 in respect of the windows within the living room and the bedroom (front and rear windows).

Mr Hempstead stated during the Hearing that the heater within the living room was 'on the small side'. It is further agreed that the gas fire is inoperative and there is no additional heating within the living room. The tribunal noted from both tenants that the single wall mounted fire did not heat the room. The tribunal found both tenants reliable and credible in their evidence. At no stage during the Inspection or the Hearing did the tribunal consider that either tenant was exaggerating their evidence. The tribunal was able to more closely scrutinise the original colour photographs Mr

Murphy took of the condensation within the front window during the Hearing by viewing pictures stored on the Tenant's lap top. The tribunal previously had access to the black and white pictures within our papers but it was of assistance to see the original colour photographs. The viewing of the colour photographs was done in the presence of the Landlord's Representatives.

We accept that condensation has been observed by both tenants within the windows in the property even though we were unable to observe this during the Inspection. We understand that it is not always possible to observe condensation and this can be dependent on weather conditions.

10. The issue to be determined is whether the Repairing Standard has been met in light of the inspection, the oral evidence and the submissions by the Tenant and Landlord.

Findings of Fact:

1. The tribunal finds the following facts to be established:

- (i) The Landlords are registered owners of the property;
- (ii) The property is a top floor flat comprising of one bedroom, bathroom , kitchen, living room and hallway;
- (iii) The gas fire in the living room is disconnected;
- (iv) A working carbon monoxide detector is installed within the kitchen;
- (v) There is an up to date satisfactory Gas Safety Record dated 11/04/18;
- (vi) The kitchen top is not properly secured;
- (vi) There is a small wall-mounted heater in the living room. There is no other heating within the living room. The heating within the living room is inadequate ;
- (vii) The seals within the front window are visibly perished. It is accepted that in certain weather conditions there is condensation;
- (viii) One of the bath handles is broken. This can be hazardous;
- (ix) The washing machine has been replaced;
- (x) The upper cupboards within the living room have items not owned by the Tenant therein, including paint tins, tiles, shower hose and a Christmas tree;
- (xi) There is a broken down coffee table within the living room under a sofa. This is not the property of the Tenant; and
- (xii) There are scraps of wood within the hallway. This is not the property of the Tenant.

Decision:

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

13. The decision of the tribunal is unanimous.

14. The tribunal proceeded to make a Repairing Standard Enforcement Order (RSEO) as required by Section 24(1) of the Act. 12. The works specified within the RSEO must be carried out and completed within the period of two months from the date of service of Notice of the RSEO.

Reasons for Decision:

15. The tribunal considers that the Landlord has had sufficient time to address their duty in respect of ensuring the property meets the Repairing Standard.

16. The tribunal considers that the Landlord has failed in their duty under Section 14(1)(b) of the Act and has not complied with the Repairing Standard in terms of Section 13 (1) (c) of that Act.

Observation:

17. The issues of the items stored within the lounge cupboard, the coffee table and the scrap wood in the hallway are not subject to Repairing Standard. We note the agreement of Mr Hempstead to remove these items and to consult with the Landlord in connection with possible removal of the old paint tins. We further note the undertaking by the Landlord to ensure the electric socket within the kitchen is repaired/replaced.

Right of Appeal:

18. A Landlord, Tenant or Third Party application 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:

19. Where such an Appeal is made, the effect of the Decision and the Order is suspended until the Appeal is abandoned or finally determined.

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.

Joseph Hughes

Joseph Christopher Hughes

Legal Member and Chairperson

Housing and Property Chamber

Dated 7th September 2018

Housing and Property Chamber

First-tier Tribunal for Scotland



Schedule of Photographs



Flat 3/2 15 Gallowflat Street Rutherglen

FTS/HPC/RP/18/1221

Inspection date – 21st August 2018

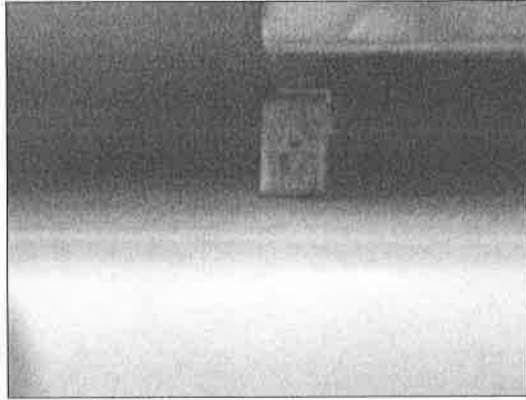
Weather – Dry and Sunny

This, and the following four pages,
is the Schedule of Photographs referred to in the
foregoing Decision dated 7th September 2018

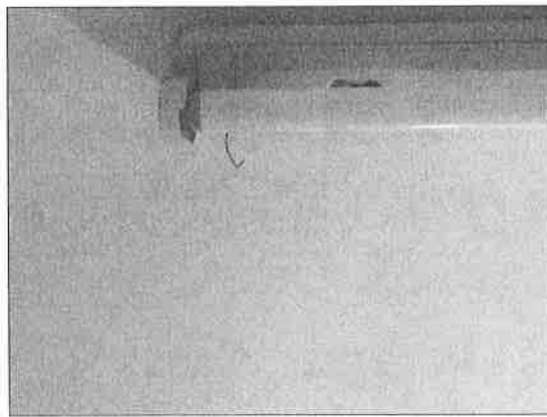
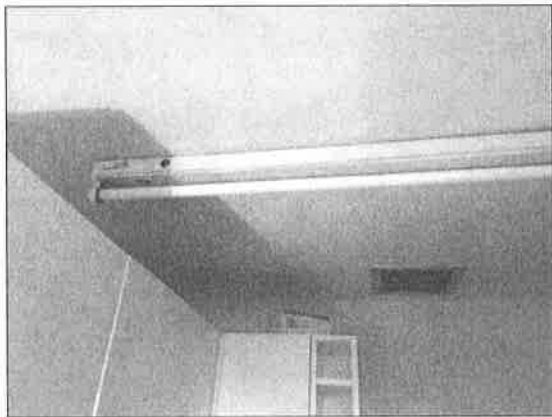
Joseph Hughes

(TORCH CHRISTOPHER HUGHES)
LEGAL CHAIRPERSON

Kitchen

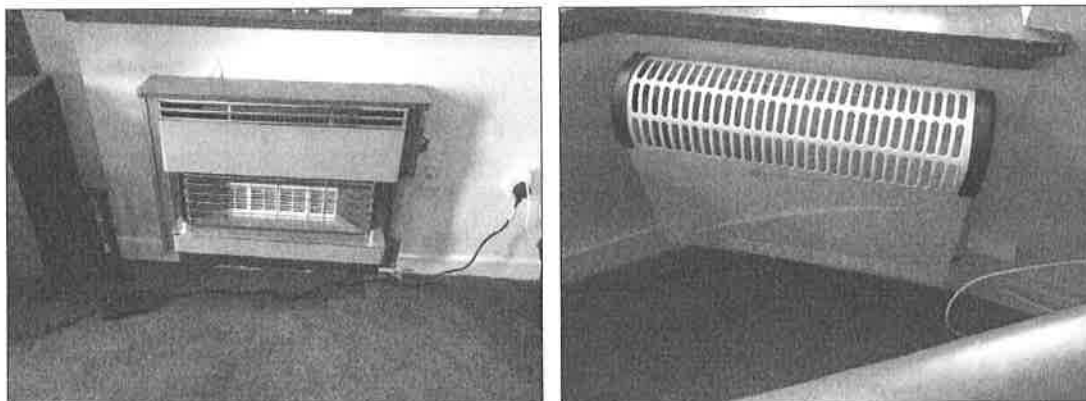


Sink and drainer unit is not attached to base and is not supported



Kitchen strip light was tested during inspection and did not work

Lounge



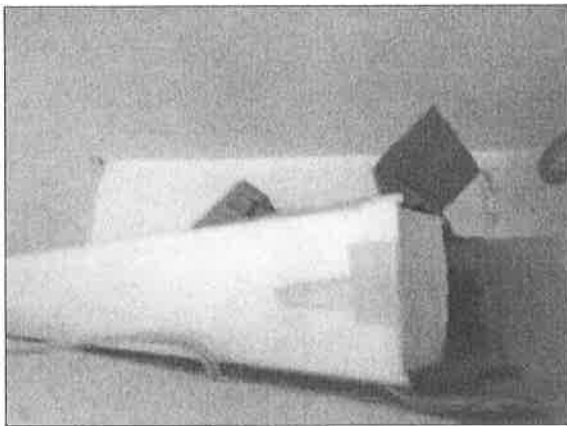
Gas fire in lounge is no longer in operation, landlord replaced with a 2kw 220-240v convector heater. The gas fire was providing the only source of heating to the lounge. The replacement wall mounted convector heater does not have a sufficient output to heat the room.



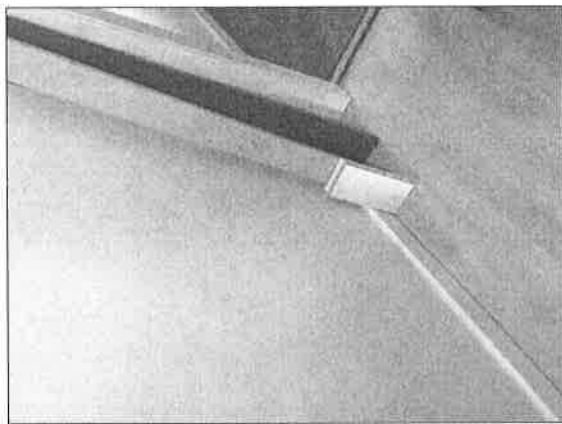
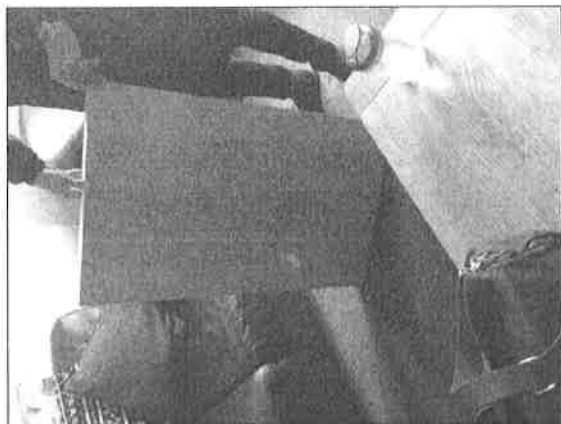
The windows in the flat are the original double-glazed units. It was noted that the rubber seal around the windows has perished in parts and the timber frame requires maintenance.

The landlord has provided a quote to repair the windows to the front and rear of the flat.

No evidence was noted during the survey of condensation between the sealed double-glazing unit. A photograph provided as evidence by the tenant does indicate that the sealed glazed unit has failed.

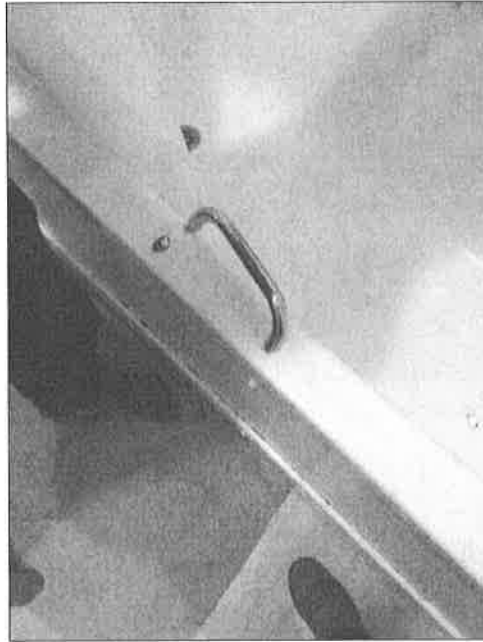
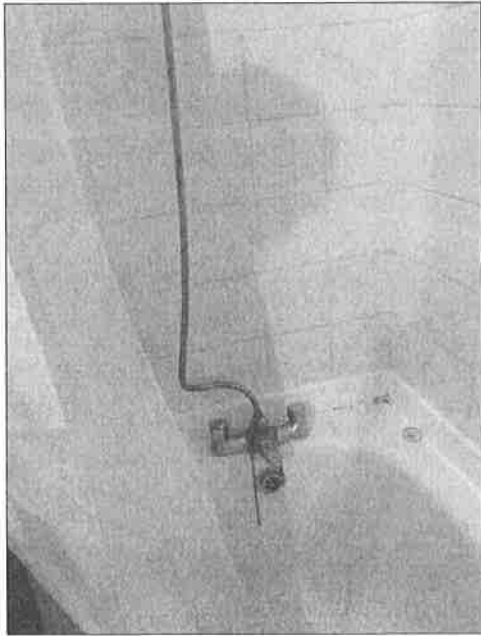


Paint tins and boxed items left in the overhead cupboards between the lounge and kitchen



A coffee table that was reported as being unstable is now stored under the sofa.
Various pieces of timber have been left in flat.

Bathroom



Mixer tap shower has been fitted instead of an electric shower

Bath handle is broken

Mechanical extract fan has been fitted within bathroom – tested during inspection

Bedroom



New blinds have been fitted.



Domestic/Landlord Gas Safety Record

Safety inspection and reporting carried out in accordance with Gas Safety (Installation and Use) Regulations and the Gas Industry Unsafe Situations Procedure. No detailed internal inspection of flues (Integrity, Construction and Lining) has been carried out.

Certificate Reference

15 Gallowflat St 31..

Certificate No:

Engineers Details

Trading Title

La Gas Services

Address

5 Birch Place
Cambuslang

Post Code: G72 2XU

Gas Safe No: 558160

Telephone No: 07882347672

Installation Details

Installation Address

3/2
15 Gallowflat Street
Rutherglen

Post Code: G73 3DX

Telephone No:

Client Details

Client Address

Slater Hogg E.K.
10 Brouster Gate
E.K

Post Code: G74 1LD

Telephone No:

Appliance Details

Inspection Details

| Location | Appliance Type | Make | Model | CO2 Reading | CO Reading | FlueType (OF/RS/FL) | Appliance Inspected (YES/NO/NA) | Combustion Analysis Reading (CO/CO2) | Landlords Appliance (YES/NO/NA) | Operating Pressure(mbar) or Heat Input(KW) | Safety Device(s) Correct Operation (YES/NO/NA) | Ventilation Provision Satisfactory (YES/NO) | Visual Condition Of Flue and Termination Satisfactory (YES/NO/NA) | Flue Performance Test (PASS/FAIL/NA) | Appliance Serviced (YES/NO/NA) | Appliance Safe To Use (YES/NO) |
|---------------------|---|------|----------------------|-------------|------------|---------------------|---------------------------------|--------------------------------------|---------------------------------|--|--|---|---|--------------------------------------|--------------------------------|--------------------------------|
| Lounge | Central heating | Baxi | BERMUDDA 401 BOILER | N/A | N/A | OF | YES | NA | YES | 11.27 kw | YES | YES | YES | PASS | NO | YES |
| Lounge | Fire | Baxi | BERMUDDA S FIRE ONLY | N/A | N/A | OF | NO | NA | YES | 0 mbar | N/A | N/A | N/A | N/A | N/A | N/A |
| Kitchen | Cooker | Beko | DG-582-MKII | N/A | N/A | FL | YES | NA | YES | 5.94 kw | YES | YES | N/A | N/A | NO | YES |
| Remedial Work Taken | | | | | | | | | | | | | | | | |
| 1 | Flue route and terminal not seen | | | | | | | | | | | | | | | |
| 2 | Found fire isolated from gas | | | | | | | | | | | | | | | |
| 3 | Boiler is very old, would advise for replacement in near future | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | |

Faults/Notes

Warning Notice Fixed

Emergency Control Valve accessible:

☒ YES

Gas Tightness Satisfactory:

☒ YES

Gas Installation Pipework Visual Inspection Satisfactory:

☒ YES

Gas ID Number:

3942575

Number Of Appliances Tested:

2

Equipotential Bonding:

☒ YES

Signed:

Date:

Wed-11-04-2018

NEXT INSPECTION DUE ON

OR BEFORE:

Thu-11-04-2019

Installation Pass:

☒ YES

Report Received By:

George Dunsmore

Signed:

Date:

Wed-11-04-2018

CO Alarm fitted and working?

☒ YES

Smoke alarm fitted and working?

☒ NA

Thin Gas Safety: Document time recorded by Gas Safe Registered Engineer - All details recorded

☒ YES

Name:

Signed:

Date:

Wed-11-04-2018



INVOICE

Countrywide Residential Lettings
Scotland Property Management Centre
26 Springfield Court
Glasgow
G1 3DQ
SCOTLAND

Invoice Date

9 May 2018

Invoice Number

INV-1738

Reference

Flat 3/2 15 Gallowflat
Street (Matthew)

VAT Number

285970943

R29 Compliance Ltd

2 Rogart Street

Glasgow

Scotland

G40 2QH

Tel: 0141 556 0707

Email:

info@r29compliance.co
m

Website:

www.r29compliance.co
m

Gas Safe Registration
Number: 616991

Description**Quantity****Unit Price****Amount GBP**

Call out to inspect gas fire and attempt to repair - engineer advised that this fire has been shut off with no gas supply but no capped. This is part of an old back boilers system and there is a few parts missing for the fire. The engineer advised that a lot of the parts for this are now obsolete and he would also not recommend repairing. It would be best to upgrade the property to combi boiler at some point in the future as opposed to repairing this old unit. There are radiators in the living room providing heat.

1.00

65.00

65.00

Subtotal

65.00

TOTAL VAT 20%

13.00

TOTAL GBP

78.00

Due Date: 16 May 2018



QUOTE

Countrywide Residential Lettings
Scotland Property Management Centre
26 Springfield Court
Glasgow
G1 3DQ
SCOTLAND

Date
25 Jul 2018

Expiry
1 Aug 2018

Quote Number
QU-1476

Reference
3/2 15 Gallowflat Street m
(Lynsey)

VAT Number
285970943

R29 Compliance Ltd
2 Rogart Street
Glasgow
Scotland
G40 2QH
Tel: 0141 556 0707
Email:
info@r29compliance.co
Website:
www.r29compliance.co
m
Gas Safe Registration
Number: 616991

| Description | Quantity | Unit Price | Amount GBP |
|---|----------|------------|------------|
| Living room | 1.00 | 280.00 | 280.00 |
| Remove old draught excluders from windows | | | |
| Fit new draught excluders to all windows | | | |
| Reseal/silicone outside of main window (the window opens inwards) | | | |
| BEDROOM | | | |
| Remove old draught excluders from windows | | | |
| Fit new draught excluders to both windows | | | |
| 3/2 15 Gallowflat Street | | | |
| Rutherglen | | | |
| G73 3DX | | | |
| Subtotal | | | 280.00 |
| TOTAL VAT 20% | | | 56.00 |
| TOTAL GBP | | | 336.00 |

Terms

30 Days