

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Statement of Reasons: Housing (Scotland) Act 2006 Section 24**

**Chamber Reference: FTS/HPC/RT/23/2591**

**Re: Property at 153 Newdyke Road, Kirkintilloch G66 2EL (“the Property”)**

**The Parties:**

**Calum Watt, CPW Property Investment, 128 Henderland Road, Bearsden, Glasgow G61 1JA (“the Landlord”)**

**Leighanne Grey, 153 Newdyke Road, Kirkintilloch G66 2EL (“the Tenant”)**

**East Dunbartonshire Council, William Patrick Library, West High Street, Kirkintilloch G66 1AD (“the Third Party”)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’) having made such enquiries as are 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 house concerned, and taking into account the evidence led at the hearing and of the written documentation submitted by the parties, determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.**

The decision was unanimous.

The Tribunal consisted of: -

M -C Kelly, Chairing and Legal Member

C Jones, Ordinary Member (surveyor)

## Background

1. By application dated 26<sup>th</sup> July 2023, 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.
2. The application stated the landlord had failed to comply with the duty to ensure that the house meets the repairing standard. The application contained email correspondence between the third party and the landlord spanning the period from 1<sup>st</sup> June 2023 to 9<sup>th</sup> June 2023 which specified that the said failure was established as the following repairs were outstanding:
  - *Water pipe burst resulting in sewage in back garden*
  - *Overflow pipe is burst/Both downpipes require immediate attention as well as guttering*
  - *Hole in the ceiling in hall cupboard with wires hanging out*
  - *Windows and doors not wind and water tight and are not secure*
  - *Taps in the property are not as correct as water comes from cold tap and vice versa*
  - *Socket in kitchen hanging from wall*
  - *Cupboards in kitchen coming off*
  - *Radiator in hall hanging off*
  - *Carpet at top of hall not properly secured*
  - *Electrical Installation Condition Report (EICR) required*
  - *Copy of gas certificate required*
3. Notices of Referral to a Tribunal under section 23(1) of the Act were sent to parties on 11<sup>th</sup> August 2023.
4. On 31<sup>st</sup> August 2023 the Tribunal issued a Direction to the landlord in terms of section 16 of schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017. The Direction required the landlord to lodge an up to date Electrical Installation Condition Report including PAT testing and a current gas safety record for the property by 8<sup>th</sup> September 2023.
5. Prior to the hearing the third party lodged written representations, a notice in terms of section 15 of the Sewerage (Scotland) Act 1968 dated 15<sup>th</sup> June 2023

and a further email correspondence with the landlord dated 14<sup>th</sup> June 2023 in which the landlord stated that he did not have sufficient funds to carry out repairs to the pipe leaking sewage at the property.

### **Inspection and hearing**

6. The Tribunal inspected the house on the morning of 11<sup>th</sup> September 2023. The tenant was in attendance at the inspection. The landlord and third party were not in attendance.
7. A hearing took place at the Glasgow Tribunals Centre at 11.45am on 11<sup>th</sup> September 2023. No parties were in attendance. The Tribunal was satisfied that parties had been properly notified of the hearing and proceeded with the hearing in their absence.
8. Photographs were taken during the inspection. Copies of the photographs are attached as a schedule to this statement of decision.
9. The property is a former Local Authority three-bedroom semi-detached house constructed in the 1950's and located in the Hillhead district of Kirkintilloch around 1.5 miles north-east of the town centre. This is a predominantly residential area which has been regenerated over recent years with areas of new build housing. The property has an open outlook over Merkland Park and associated recreation centre. The main outer walls are of brick construction with a rough-cast exterior and the roof is pitched with concrete tiles. There is a gas fired central heating system with the boiler located in a cupboard in the ground floor hall. Windows throughout the property are PVC framed and are double glazed.
10. The accommodation comprises on the ground floor: entrance hall, large hall cupboard, living room, kitchen to rear. The first floor comprises: bathroom, three bedrooms and upper landing. There are private front, side and rear gardens.
11. At the inspection and hearing the Tribunal considered each of the items specified in the application.
12. Water pipe leaking sewage in the back garden: At the inspection it was noted that a repair had been carried out to the base of the soil pipe. The bottom section of the pipe had been replaced. The remaining pipe above was extensively corroded and in a poor state of repair. The Tribunal noted that a notice in terms of section 15 of the Sewerage (Scotland) Act 1968 had been served on the landlord in respect of the leak to the waste pipe on 15<sup>th</sup> June 2023. In terms of emails

that had been lodged by the third party it was clear that an emergency repair had been carried out by the third party as the landlord had stated that he could not afford to pay for the required works. The emergency repair had remedied the immediate issue with the waste pipe however it was observed that the upper section of the pipe was in a poor state of repair.

13. Drainpipes and guttering: The rainwater goods were the original cast iron drainpipes and guttering. They were in a poor state of repair with extensive corrosion and paint flaking off. The waste pipe to the rear of the property had a number of holes and was leaking water.
14. Hole in ceiling in the hall cupboard: During the inspection it was observed that there was a large hole with electrical wires visible within the ground floor hall cupboard. The tenant commented that the hole was caused by a former leak to a pipe from the floor above.
15. Windows: The two windows in the living room, the window in the kitchen and the window in the bathroom did not have properly functioning handles. The handles were all loose, difficult to open and close and could not be locked.
16. Front door: The front door was in a poor state of repair. It was not secure. The bottom panel of the door could easily be pushed open. There was a defective lock.
17. Back door: The back door was in a poor state of disrepair and had a defective handle and locking mechanism.
18. Taps: The taps in the property were not plumbed correctly and did not function properly. The mixer taps in the bathroom and the kitchen both had hot water coming out when turned to the cold position and vice versa. During the inspection the tenant advised that the toilet also flushed with hot water.
19. Socket in the kitchen: It was observed that one of the double sockets above the base units in the kitchen was not properly secured to the wall and was hanging loose.
20. Kitchen cupboard: One of the base units in the kitchen had a defective hinge which meant that the door was not functioning properly and was misaligned when closed.
21. Radiator in hallway: The radiator in the ground floor hallway had detached from the wall bracket and was not secure.

22. Carpet on the upstairs landing: The carpet in the upstairs landing had been lifted to carry out repairs. It had not been refitted and was loose at the edges. No threshold bars had been fitted. The carpet was a trip hazard in the upper landing.
23. Gas safety record: The Tribunal noted that prior to the hearing the landlord failed to provide an up-to-date gas safety record stating that the appliances in the property were in a satisfactory condition and safe to use as requested in the Direction issued by the Tribunal on 31 August 2023.
24. Electrical Installation Condition Report (EICR) and PAT report: The Tribunal noted that prior to the hearing the landlord failed to provide an up to date EICR and PAT report as requested in the Direction issued by the Tribunal on 31 August 2023.

### **Summary of the issues**

25. The issue to be determined is whether the house meets the repairing standard as laid down in section 14 of the Act and whether the landlord has complied with the duty imposed by sections 13(1)(c) and (d) of the Act.

### **Findings in fact: -**

26. The tribunal find the following facts to be established: -
- a. The tenant and the landlord entered into a tenancy agreement with a commencement date of 1<sup>st</sup> March 2021.
  - b. The monthly rent payable in respect of the house is £650
  - c. The landlord has failed to produce an EICR or PAT for the house.
  - d. The landlord has failed to produce an up to date gas safety record for the house
  - e. A repair has been carried out to the lower section of the soil pipe at the rear of the house.
  - f. The soil pipe at the rear of the property is no longer leaking sewage.
  - g. The drainpipes, waste pipe and guttering at the property are the original cast iron rainwater goods. They are extensively corroded and in a poor state of repair.
  - h. The waste pipe to the rear of the property has a number of holes and is leaking water.

- i. The ceiling of the cupboard in the hallway of the house has a large hole with exposed electrical wires and pipes.
- j. The windows in the living room, kitchen and bathroom are not functioning properly. The handles and closing mechanisms require to be repaired.
- k. The front door to the house is in a poor state of repair and is not secure. The locking mechanism requires to be repaired or replaced.
- l. The back door to the property is in a poor state of repair and is not functioning properly. The locking mechanism requires to be repaired or replaced.
- m. The mixer taps in the kitchen and bathroom are not functioning properly. The hot water comes from the cold tap position and vice versa.
- n. A socket in the kitchen has not been secure to the wall and presents a risk to the tenant.
- o. A base cupboard in the kitchen is not functioning properly due to a defective hinge.
- p. The carpet in the upper landing has not been properly fitted and is a trip hazard.

### **Reasons for the Decision**

- 27. The Tribunal determined the application having regard to their observations at the inspection and the bundle of papers which had been available to parties prior to the hearing which included written representations from the third party and email correspondence between parties.
- 28. The Tribunal was only able to consider those items which formed part of the intimated application.
- 29. The Tribunal accepted that the tenant and third party had contacted the landlord on a number of occasions from 1<sup>st</sup> June 2023 in relation to the repairs issues at the house.
- 30. The Tribunal accepted that the landlord was served with an enforcement notice to carry out repairs to the soil pipe at the rear of the property and failed to do so. The repair was carried out by the third party due to the public health risk associated with the issue.

31. It was evident from the inspection that no repairs had been carried out by the landlord since the application had been lodged and that the repairs specified in the application remained outstanding as detailed above.
32. The Tribunal noted that the no valid gas safety record, EICR or PAT had been submitted.
33. The Tribunal took into account that the landlord did not oppose the application or lodge written representations or other evidence to counter the information provided by the third party.
34. In relation to the rainwater goods and all waste/soil pipes to the front and rear of the property it was evident from the inspection that they were in a very poor state or repair and not functioning adequately, with extensive corrosion and some parts of the drainpipes having holes. The Tribunal considered that due to their age and condition they were beyond repair and required to be replaced in order to function adequately.
35. Observations: The Tribunal noted that as well as the items specified in the application there were a number of other repairs issues. In particular, during the course of the inspection it was observed that there was not a satisfactory carbon monoxide detector within the house. It was also noted that the fire/smoke detectors within the house were not interlinked. These issues will require immediate attention by the landlord.

## **Decision**

The Tribunal determined that the Landlord has failed to comply with the duty imposed by section 14(1)(b) of the Act. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

## **Right of Appeal**

**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.

Chairperson:  
September 2023

Date: 22nd