

# 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)**

Chamber Ref: FTS/HPC/RP/23/0032

Title no: GLA87317

104 Queens Drive, B/2, Glasgow G42 8BJ ("The Property")

**The Parties:-**

Dr Emma El Makdessi, residing at 104 Queens Drive, B/2, Glasgow G42 8BJ ("the Tenant")

Ms Mary Elizabeth Glackin, residing at 31 Kimberley Drive, Crosby, Liverpool L23 5TA ("the Landlord")

**Tribunal Members: Richard Mill (Legal Member) and Nick Allan (Ordinary Member)**

### **Decision**

The property does not meet the repairing standard. The landlord has not complied with the duty imposed by section 14(1) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary.

### **Background**

1. By way of application, the tenant applied to the Tribunal for a determination of whether the landlord has failed to comply with the duties imposed by section 14(1) of the Act in respect of the property.
2. In the application the tenant stated that the landlord had failed to comply with her duty to ensure that the property meets the repairing

standard. The relevant elements of the repairing standard put at issue are those contained within Section 13(1)(h):

- The house does not meet the tolerable standard.

### **Inspection**

3. The Tribunal inspected the property on 29 March 2023 at 10.00 am. The tenant was present and invited the Tribunal members into the property. The landlord was invited but did not attend.

### **Hearing**

4. Following the inspection of the property, the Tribunal convened a hearing on 29 March 2022 at 2.00 pm by teleconference. Neither party participated.

### **Summary of Issues**

5. The issues to be determined by the Tribunal are whether or not the property meets the repairing standard to the extent put at issue within the application, as at the date of the hearing.
6. In advance of the inspection and hearing, the landlord submitted written representations. She advised that there is a functional extractor fan in the bathroom. She evidenced that electrical contractors had provided an estimate on her instructions to fit a new extractor fan and that she had instructed the work. The contractor had subsequently reported back to her that this was not necessary as the existing extractor was sufficient.
7. The tenant stated in her application that the bathroom has no window or extractor fan. It was stated that, as a consequence, there was black mould on the ceiling, walls and her belongings. She stated that she had reported this multiple times for over a year and it had not been dealt with. She highlighted that the Council had visited the property and was in agreement regarding its poor ventilation.

### **Findings in Fact**

8. The Tribunal makes the following findings in fact:
  - a. The title to the subjects known as 104 Queens Drive, B/2, Glasgow G42 8BJ is held by the landlord in the Land Register of Scotland under Title number GLA87317.
  - b. The property which is the subject of this application is a basement flat within a substantial traditional stone built tenement.

- c. The bathroom of the property is internal. There is no window. There is insufficient ventilation within the bathroom. As a consequence, there is clear evidence of mould on the ceiling, walls, around the bath sealant and on moveable items within the bathroom including the shower curtain.
  - d. There is an obsolete extractor fan unit in situ in the bathroom which is ineffective in removing necessary levels of moisture from the bathroom. The 'fan' has no apparent power supply. There is no independent switch for the fan. The fan has no visible moving blades, makes no noise and lacks functionality. It is unclear as to the route by which the fan is ducted, if at all.
  - e. There is adequate provision for smoke and heat detection within the flat and the presence of a functioning carbon monoxide was noted.
9. Reference is made to the schedule of photographs comprised within the inspection report prepared by the Tribunal and attached to this decision.

### **Reasons for Decision**

10. The Tribunal determined the application having regard to the bundle of papers which were made available, together with their observations at the inspection.
11. The Tribunal is only able to consider the complaints which formed part of the intimated application and had an obligation to consider the complaints as at the date of the inspection and hearing on 29 March 2023.
12. The Tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material with which to reach a fair determination of the reference.
13. To the landlord's credit she did take previous steps to investigate the condition of the bathroom and arrange for work to be undertaken. She was then advised the work was not necessary. The Tribunal cannot comment upon that advice as it is unaware of the condition of the fan at that time. The facts are as set out. The landlord did not attend the inspection nor the hearing. There is no challenge to the tribunal's own findings as at the time of the inspection. The provision for ventilation and the extraction of moisture in the bathroom is inadequate. This impairs the tenants enjoyment of the property but also adversely impacts upon the condition of the property which will be of concerns to the landlord. The problem identified breaches the tolerable standard and required to be remedied.

14. The Tribunal determined to make a Repairing Standard Enforcement Order (RSEO). The Tribunal determined that the landlord be provided with a period of 6 weeks to carry out these works which is reasonable given the nature and extent of the works.

### **Decision**

15. The Tribunal, having made enquiries for the purposes of determining whether the landlords have complied with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, determined that the landlord has failed to comply with his duty imposed by Section 14(1)(b) of the Act in respect that the property does not meet the repairing standard.

### **Right of Appeal**

16. 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.
17. 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.

In witness whereof these presents type written on this and the preceding page(s) are executed by Richard George Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the tribunal at Edinburgh on 31 March 2023 before this witness:-

**R Mill**

