

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 24 of the Housing (Scotland) Act 2006

**Chamber Ref:** FTS/HPC/RT/22/1995

**Property Address:** 1/1, 44 Main Street, Dundee DD3 7HN (the property”)

**The Parties:** Mr Latif Azam, 1/1, 44 Main Street, Dundee DD3 7HN (“the Applicant”)

Mrs Zahida Qadar, 367 Clepington Road, Dundee DD3 8ED (“the Respondent”)

#### **Tribuna:**

M Thorley (Legal Member)

R Buchan ( Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) having made such enquires as is fit for the purpose of determining whether the respondent has complied with the duties imposed upon them by section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the property concerned, and taking account of the evidence presented in the written and oral representations and following upon the inspection, determines that the landlord has failed to comply with the duties imposed by section 14(1)(b) of the Housing (Scotland) Act 2006.

#### **Background**

1. An application was sent by the third party applicant to the tribunal on 23 June 2022. Accompanying the application was a copy of the title deeds, lease, copy repair letters and confirmation of receipt of letters for the property.
2. The application was acknowledged on 24 June 2022. Certain further information was required.
3. On 14 July 2022 the tribunal accepted for determination the application.
4. The application was forwarded to the respondent and an inspection initially set down for 22 September 2022. The date of the inspection was subsequently amended to 22 November 2022.

## Inspection

1. An inspection took place at 10 am on 22 November 2022. The property is a first floor property in a residential street in a block of flats. In attendance were Mr Qadar together with Mr Cuthill the third party applicant and Mr Azam the tenant.
2. A schedule of photographs of the property was then taken. The complaints set out by the third party applicant were as follows:-
  - (i) No Electrical Installation Condition Report
  - (ii) No Gas Safety Certificate
  - (iii) No Energy Performance Certificate
  - (iv) No Portable Appliance Test Certificate
  - (v) The boiler was not working
  - (vi) The carbon monoxide detector sited in the kitchen was not working.
  - (vii) The gas fire supplied in the kitchen had been condemned and no new gas fire had been provided.
  - (viii) The bathroom had mould on the walls and needed to be treated and redecorated.
  - (ix) The livingroom carpet was damaged at the door.
  - (x) The windows in the livingroom were not windtight.
  - (xi) The windows in the bedroom were not windtight.
  - (xii) The windows in the bathroom were not windtight.
  - (xiii) The front door was not windtight.
  - (xiv) The radiator in the hall was missing the control handle of the thermostatic valve.
3. The inspection established the following:
  - (i) New carbon monoxide detector in the kitchen.
  - (ii) The boiler was functioning.
  - (iii) The gas fire had been switched off in the kitchen.
  - (iv) The carpet in the livingroom was frayed at the door but the landlord claimed that the flat was let unfurnished.
  - (v) There were new seals on the windows.
  - (vi) There was no draught proofing on the front door.
  - (vii) The radiator in the hall was fixed.
  - (viii) There was a significant amount of mould in the bathroom and around the toilet.
4. In addition to this the respondent provided an Energy Performance Certificate (EPC) together with EICR and Gas Safety Certificate.

## Findings in Fact

1. There was a current EICR.
2. There was a current Gas Safety Certificate.

3. There was a current EPC.
4. There was a PAT Certificate.
5. The boiler was working.
6. The carbon monoxide detector in the kitchen was working.
7. The gas fire had been detached.
8. There was a significant amount of mould on the bathroom walls which remained requiring attention.
9. The windows in the livingroom, bedroom and bathroom were windtight.
10. The front door was not windtight.
11. The radiator thermostat had been resolved.

### **Reasons for decision**

The tribunal had allowed time for the various certificates to be produced. They were submitted and found to be satisfactory. Having examined matters the only outstanding issues remained that of the mould and condensation in the bathroom and the draughtproofing of the front door. The extent of the mould was particularly severe around the toilet, has clearly built up over time. The landlord claimed that it was the fault of the tenant but whilst it could be seen that the window had not been opened and cleaned to allow better ventilation, the Tribunal could see that the overall provision of heating, ventilation and insulation was clearly inadequate. This needs to be dealt with. This requires an RICS qualified building surveyor to inspect the bathroom and provide a report specifying recommended measures to remove the mould and condensation to ensure the interior of the property meets the repairing standard.

The other issues have been identified and attended to by the respondent. Accordingly the tribunal issued a repairing standard enforcement order.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (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.**

**Legal Member:**

**Date:** 31 March 2023