

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)**

**Chamber Ref: FTS/HPC/RP/17/0417**

**Property at 11C Laird Place, Glasgow, G40 1JS**

**("The Property")**

**The Parties:-**

**Mr William Pickering, formerly 11C Laird Place, Glasgow, G40 1JS**

**("the Tenant")**

**Mr Alan McPherson, Formerly C/O 1-2 Let Ltd, 104 Bellgrove Street, Glasgow, G31 1AA and now at 15 Silvergrove Street, Glasgow G40 1DA**

**("the Landlord")**

**Decision**

**The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the written representations by the Tenant, those on behalf of the Landlord and the inspection, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

**The Tribunal consisted of:**

**Rory A.B. Cowan – Legal Member**

**Alex Hewton – Surveyor/Ordinary Member**

## Background

- 1) By application received on 8<sup>th</sup> November 2017 the Tenant 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 ("the Act").
- 2) The application by the Tenant stated that the Tenant considered the Landlord had failed to comply with his duty to ensure that the Property meets the repairing standard and in particular that the Landlord had failed to ensure that:-
  - a) **the house is wind and water tight and in all other respects reasonably fit for human habitation.**
  - b) **the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.**
  - c) **that any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.**
- 3) By letter dated 24<sup>th</sup> November 2017 the President of the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal.
- 4) The tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord, his former agents 1-2-Let Limited of 104 Bellgrove Street, Glasgow G31 1AA and the Tenant.
- 5) Following service of the Notice of Referral, written representations were received from the Landlord.
- 6) Further correspondence was received from the Tenant on 23<sup>rd</sup> December 2017 indicating that he had vacated the Property. By Minute of Continuance dated 8<sup>th</sup> January 2018 the tribunal determined to continue with the application.
- 7) The tribunal inspected the Property on the morning of 18<sup>th</sup> January 2018. The Landlord was present and provided access. The Tenant was not present at the inspection.
- 8) Following the inspection of the Property, the tribunal held a hearing at Wellington House, 134-136 Wellington Street, Glasgow G2 2XL. The Tenant attended to observe, but took no part of the proceedings. The Landlord did not attend.

## **The Hearing**

- 9) As there were no submissions made, the tribunal proceeded to determine the application based on what could be determined from the inspection. The tribunal were able to determine as follows:
- a) that part of the floor next to the bath in the bathroom has suffered significant water damage. It was spongy underfoot. When the Ordinary Member of the tribunal lifted the vinyl floor covering there was a large area where the chipboard flooring had disintegrated and was visibly very wet.
  - b) there was an electric shower over the bath, but the seals between the surface of the bath and the walls surrounding same are perished and are no longer water tight.
  - c) that the grouting in the tiled walls adjacent to the bath and underneath the shower unit was cracked and damaged in multiple areas and is therefore not watertight.
  - d) that on opening the cupboard between the bathroom and the kitchen, the floor was damp and wet to touch.
  - e) that the floor in the Kitchen (nearest the bathroom) had also suffered water damage and was uneven. Upon lifting the floor covering the floor was damp and there was evidence of extensive water staining.
  - f) whilst it was noted that there was a shower rail, but no shower curtain, there was no suggestion by the Landlord at the inspection that a shower curtain had not been in use.

## **Summary of the issues**

- 10) The issue to be determined are whether:
- a) the house is wind and water tight and in all other respects reasonably fit for human habitation.
  - b) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
  - c) that any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order

## Findings of fact

11) The tribunal finds the following facts to be established:-

- a) The Tenant was a tenant for the purposes of section 14(1) of the Act.
- b) That the tenancy commenced on or around 16<sup>th</sup> February 2017.
- c) That the Tenant vacated the Property on or around December 2017.
- d) The Property is a flatted dwelling house situated on the first floor of a modern brick building with a concrete tiled roof . The Property forms part of a larger development of privately owned apartments that was built circa 2001.
- e) The Property comprises of two bedrooms, a bathroom, a kitchen and a separate living room. All rooms, except the kitchen, are accessible off an internal hallway.
- f) The Property has a gas supply and gas boiler and central heating.
- g) The bathroom contained a bath with an electric shower over it and whilst there was a shower rail, no shower curtain was present.
- h) The floor construction in the bathroom and kitchen is a concrete subfloor with chipboard flooring above covered by vinyl floor covering.
- i) That there was evidence of significant water damage to the bathroom flooring next to the bath.
- j) The flooring next to the bath was very spongy and underneath the vinyl floor covering the floor was still very wet. The chipboard flooring was damaged and had disintegrated in parts.
- k) That the seals around the bath were perished and the grouting to the tiles on the walls next to the bath and shower was broken and there were multiple gaps evident in same.
- l) That in the cupboard off the lounge between the bathroom and the kitchen there was evidence of dampness at floor level.
- m) That the floor in the kitchen was also affected by damp, was water stained and uneven in places as a result.
- n) That the Property is not wind and water tight and in all other respects reasonably fit for human habitation.
- o) That the installations in the house for the supply of water are not in a reasonable state of repair and in proper working order.
- p) That fixtures provided by the Landlord under the tenancy are not in a reasonable state of repair or in proper working order.

## **Reasons for the decision**

- 12) The tribunal was not satisfied that the Property was wind and water tight and in all other respects reasonably fit for human habitation for the following reasons:
- a) It was patently obvious that the flooring in the bathroom has suffered significant water damage. The bathroom floor is uneven and spongy under foot. Upon lifting the vinyl floor covering the floor was obviously wet and there was an area where the chipboard flooring was significantly damaged.
  - b) In the cupboard between the bathroom and the kitchen, there was evidence of significant dampness at floor level.
  - c) In the kitchen the floor was damaged and uneven and upon lifting the vinyl floor covering, evidence of dampness was plain to see.
  - d) Although not present at the hearing, the Landlord did acknowledge at the inspection that there was water damage as described, he suggested that he had paid for the floor to be repaired in "2015" and also appeared to suggest that the dampness may be coming up from the downstairs neighbour, presumably through the concrete sub-floor. His explanation was not clear in this regard.
  - e) It was evident upon inspection that the seals round the bath had perished and failed and the grouting to the tiled walls around the bath was broken and damaged with multiple holes visible in same.

## **Decision**

- 13) The tribunal accordingly determined that the Landlord has failed to comply with his duties imposed by Section 14 (1)(a), (b) and (c) of the Act.
- 14) The tribunal therefore decided to make a Repairing Standard Enforcement Order (RSEO) as required by section 24(1).
- 15) The decision of the tribunal was unanimous.
- 16) The Surveyor/Ordinary Member of the tribunal took several photographs which form the schedule attached to this decision.

## **Right of Appeal**

- 17) 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.


- 18) 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.

R Cowan

Signed ..... ,

Date ..... 2<sup>ND</sup> February 2018.....

Chairperson

2nd February 2018 at Glasgow.  
This is the house photographs referred to  
in the decision dated 2nd February 2018.  


FTS/HPC/RP/17/0417

Schedule of photographs taken at the inspection on 18<sup>th</sup> January 2018.



Exterior of property front

Photo 1 – Exterior of property front

Photo 2 – Exterior of property rear

Photo 3 – Bathroom floor wet rot

Photo 4 – Pipes to rear of bath

Photo 5 – Poor seal below shower

Photo 6 – Poor grout to tiling

Photo 7 – No shower curtain

Photo 8 – Water damage – kitchen floor

Photo 9 – Water damage – Lounge cupboard floor



**Exterior of property rear**



**Bathroom floor wet rot**



**Pipes to rear of bath**



**Bathroom seal poor**





**Poor grout to tiling**



**No shower curtain**



**Kitchen floor damp**



**Lounge cupboard floor damp**