

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Variation of Repairing Standard Enforcement Order ("RSEO") under section 25(1) of the Housing (Scotland) Act 2006 ("the 2006 Act")

Chamber Ref: FTS/HPC/RT/18/0302

Title: Subjects at 11 Catriona Way, Holytown, Motherwell, ML1 4NU registered under Title Number LAN65284 ("The House")

The Parties:-

Ms Kelly Anne Ward, residing at 11 Catriona Way, Holytown, North Lanarkshire, ML1 4NU ("the Tenant")

Mr Imran Ahmed, residing at 8 Sycamore Place, Motherwell, North Lanarkshire, ML1 5TN ("the Landlord")

North Lanarkshire Council, Public Health and Housing Team, Municipal Buildings, Kildonan Street, Coatbridge, ML5 3LF ("the Third Party Applicant")

The Tribunal comprised:-

Mrs Ruth O'Hare	-	Legal Member
Mrs Lori Charles	-	Ordinary Member

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") having determined on 27 September 2018 that the RSEO relative to the Property dated 23 April 2018 should be varied, the said RSEO is hereby varied with effect from the date of service of this Notice in the following respects:-

- (a) To extend the period allowed for the completion of the work required by the order is by a further six weeks from the date of service of this notice; and**
- (b) To instruct the Landlord to provide a report from a qualified plumber confirming that the pipework pertaining to the bath is in a reasonable state of repair and in proper working order.**

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page(s) are executed by Ruth O'Hare, Chairperson, 2 Mill O'Forest Grove, Stonehaven, chairperson of the Tribunal at Aberdeen on 27 September 2018 before this witness:-

R O'Hare

E Johnstone

_____ witness

✓ _____ chairperson

Elizabeth Johnston, 2 Mill O'Forest Grove
Stonehaven, AB39 2GH

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision under section 25(1)(a) of the Housing (Scotland) Act 2006 ("the 2006 Act")

Chamber Ref: FTS/HPC/RT/18/0302

**Property at 11 Catriona Way, Holytown, North Lanarkshire, ML1 4NU
("The House")**

The Parties:-

Ms Kelly Anne Ward, residing at 11 Catriona Way, Holytown, North Lanarkshire, ML1 4NU ("the Tenant")

Mr Imran Ahmed, residing at 8 Sycamore Place, Motherwell, North Lanarkshire, ML1 5TN ("the Landlord")

North Lanarkshire Council, Public Health and Housing Team, Municipal Buildings, Kildonan Street, Coatbridge, ML5 3LF ("the Third Party Applicant")

The Tribunal comprised:-

Mrs Ruth O'Hare	-	Legal Member
Ms Lori Charles	-	Ordinary Member

Background

1. Reference is made to the determination of the Tribunal dated 23 April 2018 which determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act in that he had failed to ensure the Property met the Repairing Standard. The Tribunal therefore imposed a Repairing Standard Enforcement Order ("RSEO"). The works required by the RSEO were:-
 - (a) Repair or replace the gas cooker;
 - (b) Repair or replace the radiators in the two bedrooms and ensure they are in proper working order;
 - (c) Produce a gas safety certificate by a suitably qualified gas engineer following the works carried out in (a) and (b);
 - (d) Instruct a Select/NICEIC qualified electrician to inspect the electrics throughout the house and thereafter to carry out any works required following such an inspection;

- (e) Install smoke and heat detectors in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under section 2 – Fire, sub-section 2.11 Communication;
- (f) Following completion of the works at (d), and (e), produce an electrical installation condition report by a suitably qualified electrician confirming that the electrical installations within the House are in safe condition and in proper working order;
- (g) Repair the waste pipe pertaining to the bath to ensure it is watertight and in a reasonable state of repair;
- (h) Repair the sealant around the bath to ensure it is watertight;
- (i) Carry out such works as are necessary to clear all mould from the house and redecorate the affected areas;
- (j) Carry out any redecoration required after completion of the above works.

The Tribunal required the works be completed within a period of four weeks from the date of service of the order.

2. On 28th June 2018 the Ordinary Member carried out a re-inspection of the property. The Tenant was present and allowed access. The Landlord was also present. The Third Party Applicant did not attend.
3. The findings of the re-inspection were as follows:-
 - (a) The kitchen hob had been replaced however the gas over had not been repaired or replaced.
 - (b) The radiators in both bedrooms had been re-hung and were in working order.
 - (c) A gas safety certificate dated 1 June 2018 had been produced by the Landlord. In terms of the certificate the four gas burners and the central heating boiler had been tested. The gas oven had not been tested.
 - (d) An Electrical Installation Condition Report had been submitted on 22 June 2018 which listed four items as C2, where urgent remedial action was required and two items as C3 where improvement was recommended.
 - (e) Hard wired interlinked smoke and heat detectors had been fitted as per the Scottish Governments Technical Handbooks 2013.
 - (f) The waste pipe underneath the bath appeared dry with no water visible at the time of the inspection.

- (g) No repairs had been carried out to the sealant around the bath.
 - (h) No internal redecoration had been carried out.
 - (i) Water was noted on the floor at the front door. The Tenant advised this had appeared after the bath was used. The Landlord advised he would arrange for a plumber to investigate and repair as required.
4. The re-inspection report was circulated to parties for comment. No written representations were received in response. Having regard to the findings of the re-inspection, the Tribunal considered it would be necessary to obtain further information from the Landlord and the Tenant if possible and therefore determined to hold a hearing in the matter.
5. The hearing was scheduled for 14 September 2018 at Glasgow Tribunals Centre. The Landlord was present. Neither the Tenant nor the Third Party Applicant were in attendance.
6. The Landlord's submissions were as follows:-
- (a) With regard to the radiators, the smoke detectors and the kitchen hob, the Landlord concluded with the findings of the re-inspection and agreed that these issues had been attended to.
 - (b) With regard to the gas oven, the Landlord submitted that the Tenant had broken it. Since the date of the re-inspection he had replaced the gas oven with an electric oven.
 - (c) With regard to the items on the Electrical Inspection Condition Report, the Landlord advised that he had not instructed an electrician to address any of the urgent works required and marked as C2. He noted the seriousness of the issues as explained by the Ordinary Member and advised that he could arrange for an electrician to carry out the works.
 - (d) With regard to the waste pipe under the bath, the Landlord advised that a plumber had inspected the pipework and had confirmed it all to be in proper working order. He could not explain the water at the front door and reiterated that his plumber had confirmed everything was ok with the pipework.
 - (e) With regard to the sealant around the bath, the Landlord explained that this was the fault of the Tenant who did not clean the bath properly. The Ordinary Member explained to the Landlord that it was not a case of uncleanness, but that the sealant required to be taken out and replaced. In response to this the Landlord confirmed he could undertake this work.
 - (f) With regard to the internal decoration, the Landlord advised that he had served Notice to Quit on the Tenant to terminate the tenancy. It was his intention to repaint the property once the Tenant moved out.

Reasons for Decision

7. Having regard to the findings of the re-inspection and the verbal submissions from the Landlord at the hearing the Tribunal was satisfied that it had sufficient information to make a determination on the application.
8. The Tribunal noted that the Landlord had completed some of the works required by the RSEO, namely the bedroom radiators and smoke detectors. The Tribunal further noted the Landlord's submission that he had installed a new electric cooker at the property which replaced the gas cooker in the kitchen.
9. There were however a number of items outstanding, some of which caused the Tribunal serious concern. In particular, the list of C2 items on the EICR which required urgent attention. The Landlord had appeared to accept at the hearing the seriousness of these matters and had agreed to instruct an electrician to undertake the works required. The Tribunal considered it would require a further EICR once the works had been carried out and following the installation of the electric cooker, in order to satisfy itself that the electrical installations within the property were in safe working order.
10. The Landlord had agreed at the hearing that he would undertake the works required to the sealant around the bath. The Tribunal noted that the Landlord had indicated that a plumber had inspected the pipework around the bath and had confirmed it was all in proper working order. However the Tribunal had noted from the findings of the re-inspection that there still appeared to be evidence of water ingress from the ceiling next to the bath in the form of water at the front door. The Tribunal therefore considered that it would require to see a report from a qualified plumber to confirm that the pipework was in proper working order.
11. The Tribunal was nevertheless satisfied that the Landlord had completed some of the works required by the RSEO and had indicated a willingness to undertake those remaining. The Tribunal therefore determined it would be reasonable to vary the RSEO to extend the period for the works to be carried out and to instruct the Landlord to produce a report from a qualified plumber regarding the condition of the pipework pertaining to the bath.
12. Finally the Tribunal noted that no redecoration works had been completed by the Landlord. The Tribunal would expect these works to be carried out following the completion of the remainder of the works required by the RSEO, regardless of whether or not the Tenant has vacated the property.

Decision

13. The Tribunal having made such enquiries as it saw fit for the purpose of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, determined that the RSEO should be varied so as to give the Landlord a further six weeks to

complete the works required all in terms of Section 25(1) of the Housing (Scotland) Act 2006.

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.

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R O'Hare

Signed

Ruth O'Hare
Legal Member

27 September 2018

THIS IS THE RE-INSPECTION REPORT REFERRED TO IN
THE DECISION OF THE TRIBUNAL DATED 27 SEPTEMBER
2018 R O'Hare
LEGAL MEMBER

Housing and Property Chamber First-tier Tribunal for Scotland



Date of Inspection – 28th June 2018 at 14:30

Property Reference – FTS/HPC/RT/18/0302

Property Address – 11 Catriona Way, Holytown, ML1 4NU

Surveyor – Lori Charles

Previous Inspection – 19th April 2018

Access – Ms Kelly Anne Ward – Tenant

In attendance Ms Kelly Anne Ward and Mr Imran - Landlord

Weather – Dry/Sunny

Repairing Standards Enforcement Order (RSEO) dated 23rd April 2018

Works in the Repairing Standard Enforcement Order (RSEO) - In particular the tribunal requires the Landlord:-

- (a) Repair or replace the gas cooker;
- (b) Repair or replace the radiators in the two bedrooms and ensure they are in proper working order;
- (c) Produce a gas safety certificate by a suitably qualified gas engineer following the works carried out in (a) and (b);
- (d) Instruct a Select/NICEIC qualified electrician to inspect the electrics throughout the house and thereafter to carry out any works required following such an inspection;
- (e) Install smoke and heat detectors in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under section 2 – Fire, sub-section 2.11 Communication;
- (f) Following completion of the works at (d), and (e), produce an electrical installation condition report by a suitably qualified electrician confirming that the electrical installations within the House are in safe condition and in proper working order;
- (g) Repair the waste pipe pertaining to the bath to ensure it is watertight and in a reasonable state of repair;
- (h) Repair the sealant around the bath to ensure it is watertight;
- (i) Carry out such works as are necessary to clear all mould from the house and redecorate the affected areas;

Carry out any redecoration required after completion of the above works

a)



Hob replaced but Gas oven has not been repaired or replaced tenant unable to use oven.

b)



Radiators in both bedroom have been re-hung and in working order

c) Gas safety certificate received 22/6/18

The image shows a gas safety certificate form. At the top, there are handwritten details including 'Unit 14', '22/6/18', and '11/18'. The form is divided into several sections: 'APPLIANCE DETAILS' with columns for appliance type, location, and test results; 'FLUE TESTS' with columns for test type and results; 'INSPECTION DETAILS' with columns for inspection type and results; 'GIVE DETAILS OF ANY FAULTS' with a large text area for fault descriptions; and 'RECTIFICATION WORK CARRIED OUT' with a large text area for rectification work. At the bottom, there is a statement: 'NEXT GAS SAFETY CHECK MUST BE CARRIED OUT WITHIN 12 MONTHS'.

Only 4 burners on hob tested and Central heating boiler in bedroom

d) Electrical Installation Condition Report (EICR) received 22/6/18

The image shows an Electrical Installation Condition Report (EICR) form. It has a table with three columns: 'No', 'Description', and 'Code'. The observations are as follows:

No	Description	Code
1	Earthing Conductor - Too Small	C3
2	Double socket in living room needs re-fix	C2
3	Button holder in bathroom is broken	C3
4	Lamp holder (light in kitchen) broken	C3
5	Main Protective Bonding conductors to gas and water - missing	C2
6	5 single sockets upstairs have no switches illegal - need replaced	C2
7	C.P.C.s missing in upstairs lighting circuit (needs renewal)	C2

Below the table, there is a section for 'Code C1 - Danger present. Risk of injury. Immediate remedial action required.', 'Code C2 - Potentially dangerous. Urgent remedial action required.', and 'Code C3 - Improvement recommended.'. At the bottom right, there is a box with the handwritten numbers '2, 5, 6, 7' and '1, 2, 4'.

EICR received it was noted that 4 items were classed as C2 Potentially dangerous. Urgent remedial action required and 2 items C3 improvement recommended.

Works still to be carried out.

e)

Hard wired interlinked Smoke and heat detectors fitted as per The Scottish Governments Technical Handbooks 2013 Domestic under section 2 – Fire sub section 2.11 Communication

f)

See (d) above – no up dated EICR provided

g)



Waste pipe under bath appears dry no water visible at time of inspection

h)



No repairs to sealant around bath

i)



Mould on hall ceiling – no change

Water was noted on the floor at the front door that had appeared after the bath was used. The landlord advised that he would arrange for a plumber to investigate and repair as required.

Comments: This report will be submitted to the First Tier Tribunal for Scotland (Housing Property Chamber) for their decision.

Lori Charles BSc Hons MRICS

Ordinary Member (Surveyor)

Date 28/6/18

Schedule of photographs taken during the re-inspection of 11 Catriona Way Holytown by the Ordinary Member of the First Tier Tribunal for Scotland (Housing and Property Chamber) on the 28 June 2018.

Reference Number FTS-HPC-RT-18-0302