

# 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

Chamber Ref: FTS/HPC/RP/18/2531

Flat 2/2, 11 Craigie Street, Glasgow, G42 8NG ("the Property")

#### The Parties:

**MR ALI LOUAHEM M'SABEH** (otherwise known as Lohavem M'Saben Ali) residing at Flat 2/2, 11 Craigie Street, Glasgow, G42 8NG ("the Tenant")

**AQA PROPERTY LIMITED**, 585 Cathcart Road, Glasgow, G42 8AB trading as Aaron Properties, 584 Cathcart Road, Glasgow, G42 8AB represented by Mr Bukhari ("the Landlord's representative")

**JARNIAL TUMANI**, 1 Lammermuir Place, Kirkcaldy, KY2 5RD ("the Landlord")

#### Tribunal Members:

**MR E K MILLER**, Chairman and Legal Member and **MR N ALLAN**, Ordinary Member

### DECISION

The Tribunal determined that whilst the Landlord had made good progress in achieving compliance with the Repairing Standard Enforcement Order ("RSEO") dated 4 January 2019, there were a number of items still requiring attention before compliance with the RSEO would be achieved. These items are noted in the decision below.

### BACKGROUND

1. On 4 January 2019, the Tribunal issued a Decision determining that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The Tribunal issued an RSEO against the Property also dated 4 January 2019. In terms of the RSEO the Landlord was required to carry out the following works:-
  - i. To instruct a suitably qualified independent pest control contractor to eradicate the rodent issue within the Property and to rodent proof the House and thereafter to produce to the Tribunal a copy of the Report and receipted invoices for any works carried out at conclusion of any action taken;
  - ii. To subsequently repair any damage caused by rodents to the skirtings and walls in the Property;

- iii. To instruct a suitably qualified joiner to repair the floor boards in the kitchen to make them even and securely fitted and eliminate any holes; thereafter to replace the damaged linoleum with a suitable new kitchen floor covering and properly fitted and secured to the floor edges;
- iv. To instruct a suitably qualified independent contractor to repair or replace the washing machine and thereafter to produce to the Tribunal a copy of the Report and receipted invoice for any works carried out at conclusion of any action taken or the receipt for a new washing machine;
- v. To exhibit an Electrical Installation Condition Report, including Portable Appliance Testing (PAT), to the Tribunal at conclusion of the works in this Order in which the overall assessment of all electrical installations in the Property is satisfactory in all respects.
- vi. To carry out infilling to the affected walls, ceilings and floors in the living room to complete the remedial works following on the flood damage to ensure they are properly sealed, wind and watertight;
- vii. On completion of all the above works, to instruct contractors to professionally deep clean the Property and restore all affected finishes and to carry out re-decoration to the Property to a reasonable finish; And to produce to the Tribunal receipted invoices specifying the work carried out.

The RSEO gave the Landlord 6 weeks from the date of service of the RSEO to carry out the works.

3. A re-inspection had taken place on 15 April 2019, when it was apparent that the majority of works had not been done. A further re-inspection had taken place on 24 July 2019. Again, whilst a little more progress had been made in addressing the matters listed in the RSEO, compliance was still some way off. Following the re-inspection of 24 July 2019, a decision stating there had been a failure to comply with the RSEO was issued on 17 September 2019 along with a Rent Relief Order under Section 27 of the Act, reducing the rent payable under the tenancy by 90%.
4. In due course the Landlord's representative provided further documentation submitting that the Property now complied with the RSEO. There were a number of pictures of the Property included within this. It seemed from the photographs that the Landlord's representative had made more substantive progress on this occasion. As a result the Tribunal determined to again re-inspect the Property to ascertain whether compliance had been achieved.
5. The Tribunal comprising Mr E K Miller, Chairman and Legal Member, and Mr N Allan, Ordinary Member, inspected the Property on 24 January 2020 at 10am. The Tenant was present and provided access. The Landlord was neither present nor represented. The Tribunal then held a hearing at the Glasgow Tribunal Centre at 11.30am after the re-inspection of the Property. The Tenant was neither present nor represented. The Landlord's representative had indicated that he would be unable to attend but had provided written submissions to be considered.
6. The Tribunal based its decision primarily on the evidence obtained during the course of the re-inspection.

7. The first two items in the original RSEO had been for the Landlord to instruct a suitably qualified independent pest control contractor to eradicate the rodent issue within the Property and to rodent-proof it. The Tribunal had asked for a report. Any damage caused by rodents to the skirtings and walls within the Property would also require to be attended to.
8. At the July 2019 re-inspection of the Property there had still been a number of holes in the walls and skirtings where rodents could enter. There had also been multiple signs of rodent droppings within the Property.
9. At the re-inspection of 24 January 2020 it was apparent that significant progress had been made by the Landlord in this regard. A report had been provided from City Pest Solutions by the Landlord. The report was of limited value to the Tribunal as it was brief, undated and did not specify in any great detail the work that had been done. In any event, the Tribunal had the benefit of inspecting the Property to see what had been done. New flooring had been laid in the majority of the Property and this was of a good standard and addressed a number of the issues. Many of the holes in the kitchen and bathroom had been attended to.

However there were three areas that still required attention. Behind the basin in the bathroom there was still a hole in the floor where rodent infestation could occur. In addition there was a hole in the cupboard underneath the sink, around the pipework where rodent infestation could again occur. The Tribunal noted that most of the skirtings had been repaired to an acceptable standard, however at the protruding corner in the kitchen there had been a large hole in the skirting where rodents had been getting access to the Property. The Landlord appeared to have had this filled with sealant. The Tribunal was able to push the sealant and it was apparent this was a very flimsy repair and that rodents could very easily gnaw their way back through this. This would require to be properly repaired.

10. The next item in the RSEO had been for the repair of the floorboards in the kitchen and a new floor to be properly fitted. As noted above new flooring of a good standard had been laid throughout the Property and accordingly compliance had been achieved in this regard.
11. The next item in the RSEO was for the repair or replacement of the washing machine. The Tribunal noted that at the earlier inspection in July 2019 it had been stated that this was working properly and the Tribunal had therefore removed this from the ambit of this matter. However, the Tenant complained that the washing machine was again not working and had not been for some time. The Tribunal noted that whilst the door didn't shut readily it did indeed shut. However, the washing machine itself did not appear to be working. The Tribunal had noticed in the correspondence that the Tenant had notified the Landlord of this. Accordingly the Tribunal would, whilst not making any order in relation to the washing machine, recommend that the Landlord repair or replace this as otherwise the Tenant could simply lodge another application with the Tribunal in relation to the washing machine. This would benefit neither party.
12. The Tribunal had required an Electrical Installation Condition Report to be provided along with Portable Appliance Testing. The Landlord had produced some evidence that they had had a contractor try to carry out works to allow a clear EICR Report to

be exhibited. There was a suggestion that there had been a difficulty in obtaining access from the Tenant. The Tribunal questioned the Tenant at the inspection in relation to this. The Tenant admitted that on one occasion he had fallen asleep and had not responded to a tradesman. Beyond that he was adamant that he had tried to make himself available at all times. It was apparent that the Tenant was in very poor health. The Tribunal noted that he was receiving treatment for cancer and required to attend at hospital regularly. This may have exacerbated the situation in relation to access.

13. The Tribunal was not in a position to determine whether there had been significant problems in obtaining access or not. The Tribunal would again reiterate that both parties required to work together to complete the various works. If the Landlord cannot gain access there are provisions within the Act regarding rights of entry that the Landlord can avail themselves of if so required. In any event the EICR and PAT testing certificates still required to be provided.
14. The Tribunal had required remedial works to be carried out in the living room following flood damage to the Property. Whilst the majority of these had been carried out previously the Tribunal had noted at its inspection in July 2019 that the hole in the ceiling in the living room had not been properly plastered or repaired. Rather the Landlord had simply wallpapered over the hole. It was readily apparent to the Tribunal that no works had been carried out since that date and that the hole remained and simply had wallpaper covering it. The Tribunal had made it clear in their decision of September 2019 that this was unacceptable and that the Landlord required to address this. The Tribunal was therefore surprised to see that no works had been carried out. This would require to be done to achieve compliance. The Tribunal noted that there was also some water damage to the wallpaper in the corner of the kitchen that required to be attended to.
15. During the inspection and in some of the correspondence the Tenant had complained that the boiler was not working. The Tribunal noted the Tenant's representations in this regard. However the Tribunal had had sight of a clear Gas Safety Certificate at the last re-inspection. The Tribunal also noted that despite the Tenant's claim that the boiler was not working properly the radiators were warm to the touch when they had entered the Property and the flat was clearly well heated. The Tribunal tested the boiler and it fired up very quickly and the radiators became hot in the usual manner. The Tribunal was satisfied that the boiler was in proper working order.

## **Summary**

16. The Tribunal was pleased to note that progress had been made. However, as noted above there were a number of items that still required to be dealt with in order to allow compliance and the Discharge of the RSEO and the Rent Relief Order.
17. In summary the Landlord and his agents require to:-
  - Infill the hole behind the bathroom sink to ensure no rodent infestation.
  - To infill the holes around the pipework in the cupboard under the kitchen sink to ensure no rodent infestation.
  - Properly repair the hole that has been filled with sealant in the kitchen.

- To exhibit an EICR and PAT Certificate.
- To properly repair and redecorate in relation to the hole in the living room ceiling and the small area in the kitchen.

### **Decision**

18. The Tribunal had determined that in terms of the Act the Landlord had still failed to comply with the RSEO. The Rent Relief Order would remain in place. The Tribunal would encourage the Landlord and his agent to carry out the last items required to achieve compliance in order that this matter could be disposed of.

19. The decision of the Tribunal was unanimous.

### **Right of Appeal**

20. 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.

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.

### **Effect of section 63**

21. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

E Miller

Signed

Chairperson

Date

..... 10/2/2020 .....

*This is the re-inspection report of 24/1/2020 issued to in the freezing decision  
date 10/2/2020*

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



**3rd Re-inspection Report**

**Flat 2/2, 11 Craigie Street, Glasgow, G42 8NG**

**Case Reference:** FTS/HPC/RP/18/2531

**Date of inspection:** 24/01/2020

**Time of re-inspection:** 10.00 am

**Weather conditions:** Dull and overcast

**In attendance:** Mr Ewan Miller – Legal Member  
Mr Nick Allan - Ordinary Member  
Mr Ali Louahem M'sabeh -Tenant



Photo 1 – Front elevation



Photo 2 – Rodent access point in bathroom



Photo 3 – Kitchen sink cupboard



Photo 4 – Silicon filled hole in kitchen



Photo 5 – Crude patch repair in L/Room



Photo 6 – Poor quality decoration in Kitchen



Photo 7 – New floor covering in L/Room



Photo 8 – New flooring in Hallway



Photo 9 – Defunct washing machine

Nick Allan FRICS  
Surveyor – Ordinary Member  
First-tier Tribunal (Housing and Property Chamber)  
5th February 2020