

Housing and Property Chamber
First-tier Tribunal for Scotland



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

**STATEMENT OF DECISION OF THE TRIBUNAL UNDER SECTION 24(1) OF THE
HOUSING (SCOTLAND) ACT 2006**

Case Reference FTS/HPC/RP/23/1555

Property at 95 Rannoch Place, Irvine KA12 9NH ("the Property"), being subjects registered in the Land Register of Scotland under Title Number AYR55023

The Parties: -

Ms Helen Allison, residing at 95 Rannoch Place, Irvine KA12 9NH ("The Tenant")

Mr David Lynn, residing at 1 West Gatehead Cottages, Crosshouse, Kilmarnock KA2 0BT ("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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act, and has determined to make a Repairing Standard Enforcement Order ("RSEO").

The Tribunal comprised: -

Mr. Andrew Cowan, Legal Member, and
Mr. Nick Allan, Ordinary Member (Surveyor)

Background

1. By application dated 15th May 2023 (hereinafter referred to as "the Application") the Tenant applied to the Tribunal for determination as to whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

2. The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure the House meets the Repairing Standard and, in particular the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

13(1) a. The house is wind and watertight and in all other respects reasonably fit for human habitation.

13(1) b. The structure and exterior of the house (including drains gutters and external pipes) are in a reasonable state of repair and in proper working order.

13(1) c. The installations in the house for the supply of water, gas and electricity and sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.

13(1) d. 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. The Tenant is represented in her Application by Mr. Alister Meek, CHAP, 71 Princes Street, Ardrossan KA22 8DGB by letter, dated 3rd November 2022 (hereinafter referred to as "the Tenant's representative").
4. The Tenant has stated, within the Application, details as to why she considers that the Landlord has failed to meet the Repairing Standard. By letter dated 22nd March 2023, the Tenant's representative had intimated to the Landlord a list of defects which the Tenant considered the Landlord required to repair in order to bring the Property up to the Repairing Standard.

5. A summary of the issues which were intimated to the Landlord, is:-

General

- a. The Landlord has not exhibited an Electrical Installation Completion Certificate ("EICR") in relation to the Property.

- b. The Landlord has not exhibited a valid Gas Safety Certificate from a registered Gas Safe Engineer in relation to the Property.

Specific Issues in rooms of the Property

Exterior

- There has been water ingress into the property from the roof area. There are cracks on exterior walls of the property. The gutters at the front of the Property are in disrepair and there are no gutters at the rear of the property. The Property suffers from dampness. The front and back door of the Property are not wind and watertight.

Bathroom

- The Bath leaks to the kitchen below and the flooring has warped due to the water leaking from the bath.
- The bathroom window has no handle and cannot be properly operated. As a consequence, condensation and dampness accumulate in the bathroom.

Kitchen

- The ceiling panel in the kitchen is loose and has been damaged by water leaking from the bath located immediately above the kitchen.
- The cooker is not secured in place.

Bedroom 1

- There is a hole in the radiator which leaks during use and has damaged the surrounding flooring.
- Repair loose/broken section of floorboards at either side of bed

Bedroom 2

- The flooring has been damaged by water leaking from the bath in the adjacent bathroom.

Staircase

- The ceiling above the staircase is water damaged.

Windows/Doors

- Multiple windows in the Property are not wind and watertight and one bedroom window has moisture trapped between the panes of glass. The external doors of the Property are not wind and watertight.

6. The Tenant lodged with the Application a copy of the Landlord's response to the Tenants' complaints dated 3rd April 2023.
7. This application was accepted by the Chamber President on 13th June 2023 and was referred for the Tribunal's consideration.
8. Directions dated 28th July 2023 were issued by the Tribunal to the Landlord which required the Landlord to produce a current Electrical Installation Report for the Property, together with a current Gas Safety Certificate. The Landlord was also required to produce a copy of the Tenancy Agreement in respect of the Property.
9. By letter dated 11th August 2023 the Landlord lodged with the Tribunal
 - a. Electrical Installation Report for the Property dated 8th November 2018.
 - b. Gas Safety Certificate for the Property dated 18th January 2023.
 - c. Copy of the Tenancy agreement between the Parties dated 26th October 2007
10. By letter dated 14th July 2023 issued to both parties the Tribunal advised they would inspect the property on 23rd August 2023 at 10am. Parties were advised that a hearing would then be held at 1200 on the same date at Russell House, King Street, Ayr. Parties were invited to complete a form indicating whether they wished to attend the hearing to make oral representations and/or submit written representations. The Landlord did not return the form to the Tribunal and did not lodge any written representations.

Property Inspection

11. The Tribunal inspected the property on 23rd August 2023. The Tenant was present at the time of the inspection. The Landlord did not attend the inspection. Photographs were taken during the inspection by the Tribunal. Copies of the photographs taken by the Tribunal are attached as a schedule to this report.

The Hearing

12. A hearing in relation to the Application was held 23 August 2023 at Russell House, King Street, Ayr.

Mr. Alister Meek attended the hearing as the Tenant's representative.

Neither the Landlord nor the Tenant attended the hearing.

13. At the start of the hearing the Tribunal outlined their observations from their inspection of the property. By reference to the specific list of complaints raised by the Tenant, the Tribunal had noted:-

Gas and Electrical Installations

- The Landlord has exhibited an EICR and gas safety certificate in respect of the Property. The Tribunal were satisfied with the terms of the gas safety certificate. The Tribunal noted that, at the time of the inspection, many of the electrical sockets and switches in the property showed signs of overheating. The pendant light fitting in the bathroom was not a sealed unit and did not meet required safety standards. The EICR was issued on 8th November 2018.

Exterior

- The Tribunal noted that a large section of the gutter at the rear of the Property was missing. The gutter at the front of the Property was misaligned and off-level. There was evidence of vegetation growth in both the front and (remaining parts of) the rear gutters, The fascia boards were in poor condition at the front and rear of the building. The Tribunal considered that the condition of the guttering contributes to rainwater running down the external walls of the property as evidenced by water staining to the external walls, Although the Tribunal were unable to fully inspect the roof, the Tribunal considered that it was likely that there had previously been water ingress into the Property around the location of soil vent pipe and protective sleeve protruding through the roof at the rear of the property above the Bathroom

Bathroom

- The Tribunal noted that by the time of their inspection a repair had been completed and that there was no continuing leak from the bath drainage. The bath panel is missing. The flooring in the bathroom is slightly warped, but not considered to be unfit for use.
- The Tribunal used a damp meter to test the walls and ceiling of the bathroom. There was no evidence of dampness. There was evidence of historic water damage around the pipe chase which covers the soil pipe leading to the roof, but the Tribunal were unable to determine whether there was ongoing water ingress at that location,
- The bathroom window has no handle and cannot be properly operated. It is not in a reasonable state of repair or in proper working order.

Kitchen

- The ceiling panel in the kitchen is loose and has been damaged by water ingress. It is potentially unsafe. It requires to be properly secured.

- The oven is not secured in place. It can be easily pulled out from the integrated kitchen unit in which it is located. It is not in a reasonable state of repair. One of the gas rings of the gas hob does not work. The gas hob is not in a reasonable state of repair.

Bedroom 1

- The Tribunal could not find any evidence of a hole in the radiator. A repair has recently been completed to the radiator.
- There are missing or broken areas of the laminate flooring around the location of the radiator in this bedroom. The flooring in this area is not in a reasonable state of repair.

Bedroom 2

- The flooring in this bedroom is slightly warped, but not considered to be unfit for use.

Staircase

- The plasterwork on part of the ceiling above the bottom of the staircase has been damaged, It is not in a reasonable state of repair.

Windows/Doors

- The Tribunal observed that many of the windows in the Property are difficult to operate and do not function correctly. Draughts were noted around the frames of the windows in the kitchen, bedroom, and bathroom. Many of the window handles are loose or not operable. The sealed double-glazing unit in the bedroom to the rear of the property has moisture trapped between the panes of glass. The back door of the property is not weatherproof.

14. The Tenant's Representative accepted the Tribunal's observations and did not seek to challenge their views following the inspection.
15. The Landlord did not attend the hearing and has not lodged any written submission in response to the Application.

Findings in Fact

13.

- a) The Landlord and the Tenant are parties to a tenancy agreement in respect of the Property at 95 Rannoch Place, Irvine KA12 9NH.
- b) The roof and gutters at the property are not in a reasonable state of repair or in proper working order.
- c) The flooring in the bathroom is slightly warped but is in a reasonable state of repair.

- d) The bathroom window has no handle and cannot be properly operated. It is not in a reasonable state of repair or in proper working order.
- e) The ceiling panel in the kitchen is loose and has been damaged by water ingress. It is not in a reasonable state of repair.
- f) The oven and hob on the kitchen of the property are not in a reasonable state of repair and in proper working order.
- g) The flooring in the front left bedroom is not in a reasonable state of repair.
- h) The plasterwork on part of the ceiling above the staircase is not in a reasonable state of repair.
- i) The windows in the Property are difficult to operate and do not function correctly. They are not in a reasonable state of repair or in proper working order. The rear door of the property is not in a reasonable state of repair or in proper working order.
- j) The electrical installations in the Property are not in a reasonable state of repair.

16. The Property does not currently meet the Repairing Standard and in particular the Landlord has failed to comply with subsections (a), (b), (c), (d) of Section 13(1) of the Act.

Reasons for Decision

17. Having inspected the Property, the Tribunal were satisfied that the Property did not meet the Repairing Standard in relation to those matters observed by the Tribunal and as narrated at Paragraph 13 above.

Decision

18. The Tribunal accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

19. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act. The Tribunal determined to require the Landlord to: -

- a. Instruct a suitably qualified specialist to

- i. prepare a report on the condition of the roof and guttering of the Property (along with associated timber work and the sleeve of the soil pipe as it exits the roof) detailing the cause and full extent of any previous water ingress /damp staining at the Property and
 - ii. prepare a proposed specification of works outlining any necessary works required to ensure that the Property is wind and watertight and that the structure and exterior of the house (including drains gutters and external pipes) are in a reasonable state of repair.
- b. Submit the report and specification required at Paragraph a to the Tribunal for further consideration and, thereafter, carry out all works which are then further determined by the Tribunal as are necessary to ensure that the property meets the Repairing Standard.
- c. Carry out such works as may be necessary so that all the windows in the Property are in a reasonable state of repair and in proper working order.
- d. Carry out such works as may be necessary so that all the back door of the Property is in a reasonable state of repair and in proper working order.
- e. Repair the flooring in the front (left) bedroom of the Property so that the flooring is in a reasonable state of repair and in proper working order.
- f. Repair or replace the oven and hob in the kitchen of the Property so that they in a reasonable state of repair and in proper working order.
- g. Repair the plasterwork above, at the ceiling above the stair, at the Property so that it is in a reasonable state of repair.
- h. Instruct a SELECT, NICEIC or NAPIT registered electrician to carry out a full inspection of the electrical wiring, installations and apparatus throughout the Property and to repair or renew any parts which are identified in said report to be of Category C1 or C2 to ensure the installation and apparatus is fully functioning and meets current regulatory standards and provide a new EICR to the Tribunal confirming that the installations, apparatus and wiring meet current regulatory standards,

20. The Tribunal order that the works specified in the RSEO must be carried out and completed within the period of 2 months from the date of service of this Notice.

21. The decision of the Tribunal is unanimous.

Right of Appeal

22. A Landlord, tenant or third-party applicant aggrieved by the decision of the Tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

Right of Appeal

23. 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.

A Cowan

Chairperson
Andrew Cowan

Date 23 August 2023

Housing and Property Chamber

First-tier Tribunal for Scotland



Inspection Photograph Schedule 95 Rannoch Place, Irvine, North Ayrshire KA12 9NH

Case Reference: FTS/HPC/RP/23/1555

Date of inspection: 23/08/2023

Time of inspection: 10.00 am

Weather conditions: Dry but overcast

Present: Mr Andrew Cowan – Legal Member
Mr Nick Allan – Ordinary Member
Ms Helen Alison – Tenant



Photo 1 – Missing guttering on rear elevation



Photo 2 – Off level guttering and staining on F/E



Photo 2 – Facia boards in poor condition



Photo 3 – Facia board detail and roughcast crack



Photo 4 – Sealed glazing failure in rear Bedroom



Photo 5 – Condensation within sealed unit



Photo 6 – Missing handle on Bathroom window unit



Photo 7 – Loose handle in small front Bedroom



Photo 8 – Noticeable draft from closed Kitchen window



Photo 9 – Dry floor under bath + historic staining



Photo 10 – Water affected floor surface in Bathroom



Photo 11 – Water affected floor in rear Bedroom



Photo 12 – Poor repair to radiator pipe in main Bedroom



Photo 13 – Missing flooring in main Bedroom



Photo 14 – Loose Kitchen ceiling



Photo 15 – Unsecured oven unit



Photo 16 – Large gas ring on hob not functioning



Photo 17 – Damaged ceiling at foot of stairs



Photo 18 – Rear door detail



Photo 19 – Rear door detail



Photo 20 – Discoloured socket in small front bedroom



Photo 21 – Historic water damage in Bathroom

Inspection Notes

1. In so far as it was possible to gain access, the Tribunal were unable to see evidence of water ingress within the loft-space.
2. The Tribunal noted evidence of historic water ingress throughout the property. Photographs 9,10,11,12,14,17 and 21 above refer.
3. The Tribunal noted the presence of fully functioning and interconnected smoke alarms and heat sensor.

4. The Tribunal observed that the light fitting in the Bathroom was not suitable for its' location.
5. The Tribunal noted that the rear door and door-frame are not fully weather-sealed or draft-proofed. Photographs 18 & 19 above refer.

Nick Allan FRICS
Surveyor – Ordinary Member
First-tier Tribunal
Housing and Property Chamber – 28th August 2023