

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



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

**Repairing Standard Enforcement Order: Housing (Scotland) Act 2006 Section 24 (2)**

**Reference number: FTS/HPC/RP/19/2530**

**Re: Property at Flat 0/2, 218 Allison Street, Glasgow G42 8RS ("House")**

**The Parties:**

**Alina Munteanu, Flat 0/2, 218 Allison street, Glasgow G42 8RS ("Tenant")**

**Govanhill Law Centre, Samaritan House, 79 Coplaw Street, Glasgow G42 7JG ("Tenant's Representative")**

**Robina Hussain otherwise known as Robina Rasul, Haji Public Secretariat, Mandi Bahauddin, Punjab, Pakistan ("Landlord")**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Joan Devine (Legal Member); Donald Wooley (Ordinary Member)**

**NOTICE TO: Robina Hussain otherwise known as Robina Rasul ("the Landlord")**

Whereas in terms of its decision dated 13 November 2019, the Tribunal determined that the Landlord had failed to comply with the duty imposed on her by Section 14(1)(b) of the Housing (Scotland) Act 2006, and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that the House is wind and watertight and in all other respects reasonably fit for human habitation and the fixtures fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working or and the House meets the tolerable standard.

The Tribunal now requires the Landlord to carry out such work as is necessary for the purpose of ensuring that the House meets the repairing standard and that any damage caused by the carrying out of any work in terms of this order is made good before the date specified in this order.

**In particular the Tribunal requires the Landlord to :**

- 1. repair the hole in the masonry at the rear wall of the back bedroom of the House to ensure the House is wind and watertight;**
- 2. repair or replace the leaking plastic condensate pipe serving the boiler in the rear bedroom of the House and ensure it is in a reasonable state of repair and in proper working order;**
- 3. repair or replace the mortice lock on the front door to ensure it is in a reasonable standard of repair and in proper working order;**
- 4. make good the damage caused in the living room by the removal of wall lights and redecorate affected areas;**
- 5. instruct a suitably qualified contractor to inspect and report on the concealed ventilation system in the kitchen and undertake any work necessary to bring it up to a standard compliant with current regulations; and**
- 6. obtain an Electrical Installation Condition Report (EICR) from a SELECT, NICEIC or NAPIT registered electrician in respect of the House specifically to include the areas where the previously identified "loose hanging wall light fittings" have been removed and also the electrical ventilator in the kitchen. Any work which is identified in said report to be of Category C1 or C2 should be repaired to the satisfaction of the reporting registered electrician.**

**The Tribunal orders that the works specified in this order must be carried out and completed within the period of 5 weeks from the date of service of this notice.**

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.

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.

# J Devine

Joan Devine, Legal Member

In witness whereof these presents type written on this and the preceding page are executed by Joan Devine, Solicitor, Cornerstone, 107 West Regent Street, Glasgow G2 2BA, Chairing Member of the Tribunal at Glasgow on 13 November 2019 before this witness:-

witness : **H Brown** .....

name in full : HANNAH BROWN .....

Address : Cornerstone, 107 West Regent Street, Glasgow G2 2BA



## **Determination of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Reference number: FTS/HPC/RP/19/2530**

**Re: Property at Flat 0/2, 218 Allison street, Glasgow G42 8RS (“House”)**

**The Parties:**

**Alina Munteanu, Flat 0/2, 218 Allison Street, Glasgow G42 8RS (“Tenant”)**

**Govanhill Law Centre, Samaritan House, 79 Coplaw Street, Glasgow G42 7JG (“Tenant’s Representative”)**

**Robina Hussain otherwise known as Robina Rasul, Haji Public Secretariat, Mandi Bahauddin, Punjab, Pakistan (“Landlord”)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) comprising: Joan Devine (Legal Member); Donald Wooley (Ordinary Member)**

### **DECISION**

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 (“Act”) in relation to the House and taking account of all the available evidence determines that the Landlord has failed to comply with the duty imposed on her by Section 14(1)(b) of the Act. The Tribunal therefore issues a repairing standard enforcement order. The Tribunal's decision is unanimous.

### **Background**

1. By application dated 14 August 2019, the Tenant applied to the Tribunal for a determination that the Landlord had failed to comply with their duties under Section 14(1) of the Act.
2. In the application, the Tenant stated that she believed that the Landlord had failed to comply with her duty to ensure that the House met the repairing standard as set out in Sections 13(1) (a), (d) and (h) of the Act. Her application stated that the Landlord had failed to ensure that:

- the House is wind and watertight and in all other respects reasonably fit for human habitation
  - fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, and
  - the House meets the tolerable standard
3. The Tenant made the following complaints in her application and in her notification communications to the Landlord :
- leak in the bathroom
  - extensive hole in the exterior wall through to the back bedroom
  - dampness in the back bedroom,
  - water damage to the rear bedroom floor due to previous boiler leaking
  - lock broken on the front door
  - extractor fan in the kitchen broken
  - loose hanging wall light fittings in the living room
4. On 9 September 2019, the Convener of the First-tier Tribunal for Scotland (Housing and Property Chamber) issued a Notice of Acceptance stating that she considered the application paperwork comprising documents received between 14 August and 5 September 2019 and considered that no further documents or information was required before the application could be accepted for determination by the Tribunal.
5. The Clerk to the Tribunal wrote to the Tenant's Representative and to the Landlord on 25 September 2019 notifying them under and in terms of the Act of the decision to refer the application under Section 22(1) of the Act to a Tribunal and that an inspection and a hearing would take place on 5 November 2019.

### The Inspection

6. The Tribunal inspected the House on the morning of 5 November 2019. The weather conditions at the time of the inspection were dry and bright. The Tenant was present at the House during the inspection along with Wendy Malloy of the Tenant's Representative. The Landlord was not present or represented at the inspection. Photographs were taken during the inspection and are attached as a Schedule to this decision.

### The House

7. The House is a self-contained ground floor flat within a four storey traditionally built sandstone tenement. With the exception of a fruit retail outlet on the ground floor to the east of the close entrance the remainder of the properties within the building appear to be occupied as flats with shared common close access. The

accommodation comprises, entrance hall, two bedrooms, living room, kitchen and bathroom.

### The Hearing

8. Following the inspection, the Tribunal held a hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The Tenant did not attend. Wendy Malloy of the Tenant's Representative attended the hearing. The Landlord was not in attendance or represented.

### The Evidence

9. The evidence before the Tribunal consisted of:
  - 9.1 the application form completed by the Tenant's Representative;
  - 9.2 Land Register report relating to the House;
  - 9.3 emails of notification from the Tenant's Representative to the Landlord and the Landlord's agent notifying them of the issues complained about in the application;
  - 9.4 the Tribunal's inspection of the House; and
  - 9.5 the oral representations of the Tenant's Representative.

### Summary of the Issues

10. The issue to be determined was whether the House meets the repairing standard as set out in Section 13 of the Act and whether the Landlord had complied with the duty imposed on them by Section 14(1)(b).

### Findings of Fact

11. The Tribunal made the following findings in fact:
  - 11.1 The Tenant of the House is Ms Alina Munteanu in terms of a tenancy agreement between the Tenant and the Landlord dated 16 May 2018.
  - 11.2 The owner of the house is Mrs Robina Rasul otherwise known as Robina Hussain. She is the landlord of the house in terms of the tenancy between the parties.
  - 11.3 The tenancy between the parties was continuing as at the date of the hearing in relation to the Tenant's application.

- 11.4 In terms of emails dated 21 May and 3 July 2019 the Tenant's Representative, on behalf of the Tenant, intimated to the Landlord that work required to be carried out to the House for the purposes of ensuring that the Landlord complied with the duties imposed by section 14 (1) (b) of the Act.
- 11.5 There is a significant hole in the exterior back wall in the rear bedroom of the House.
- 11.6 There is a defective joint in the condensate pipe serving the gas fired boiler in the rear bedroom. The floor immediately below where the pipe is leaking is saturated.
- 11.7 The mortice lock on the front door is not operational.
- 11.8 There is no satisfactory external ventilation from the kitchen.
- 11.9 The loose hanging wall lights in the living room of the House have been removed. The damage caused by the removal has not been made good.

#### Reasons for the Decision

12. The Tribunal in its inspection carefully checked the items which were the subject of the application. Inside the House the Tribunal observed the following:
  - 12.1 Surrounding the rim of the bath there is what appears to be a silicon based seal (Photographs 2 & 3). Due to the fitted bath panel and floor covering access around the bath was restricted, although moisture readings taken randomly around the bath identified no sign of any "leak" or damp in the flooring or wall plaster.
  - 12.2 Access was gained to a basement area immediately below the bathroom. The floor boards of the bathroom, when viewed from within the basement, appear to have been renewed with fresh timber (Photograph 4). Old damp staining on the timber was tested and established to be dry. The supporting timber floor joists are the original and although dry, display evidence of some localised decay (Photograph 5).
  - 12.3 There is a significant hole in the stone masonry of the rear wall. It would appear to have been created to facilitate a PVC condensate pipe serving the gas fired boiler, located in the rear bedroom, to drain directly into an external cast iron soil pipe. There is a corresponding hole affecting the wall plaster in the rear bedroom (Photographs 6 & 7).
  - 12.4 Within the rear bedroom the condensate pipe, running from the recently installed boiler to the external soil pipe, has a defective joint. This has been caused by inadequate support, resulting in sagging at this area. It is visibly leaking, the flooring immediately below is saturated and repairs are

necessary to the surrounding floor covering (Photographs 8-10). There is no evidence of significant damage to the floor covering immediately below the existing boiler which has replaced the previous boiler referred to within the correspondence accompanying the application and described under "Background 3" (Photograph 11).

- 12.5 The previously defective entrance door lock has been recently renewed with a "Yale" style replacement which is functioning satisfactorily (Photograph 12). There is, as additional security, a mortice lock. This was not functioning at the time of the inspection and the Tenant has no key.
- 12.6 Within the House a number of ceilings appear to have been lowered specifically at the kitchen and rear bedroom. The kitchen is ventilated by an electrical vent located in the ceiling plaster and discharging either into a concealed conduit within the void immediately above the kitchen or alternatively directly into the void. The electrical operating system of the ventilator was functioning although there is no visible evidence of a connecting flue vent on the rear wall of the tenement (Photograph 13). Unless the conduit ventilates directly into a concealed chimney flue or other suitable alternative, then it is likely that there is no satisfactory means of external ventilation from the kitchen.
- 12.7 The loose hanging wall light fittings in the living room have been removed and the resulting holes have been roughly filled with plaster. The standard of plastering is very poor and there has been no subsequent attempt to redecorate the affected areas (Photographs 14 & 15).
13. At the Hearing the Tenant's Representative told the Tribunal that title to the House is held in the name Robina Rasul. The landlord registration is in the name Robina Hussain. The Tenant's Representative understood that they were one in the same. The Tenant's Representative told the Tribunal that a gas safety record had now been provided to the Tenant and the heat detector and smoke alarm in the House had now been fixed. As regards the leak from the bath she told the tribunal that the neighbour who owns the cupboard below the bathroom of the House had complained about water in the cupboard. As regards the extractor fan in the kitchen she said that it was not fulfilling its purpose. The lack of ventilation was what brought the House below the tolerable standard.

### **Additional Observations**

14. The cooker control unit is remote from the kitchen and is located in the rear bedroom. A previous inspection by the Tribunal in an earlier application reference FTS/HPC/RP/19/0332 identified scorch marks on the external casing of the fitting. This has now been renewed (Photograph 16). During the inspection it was noted that the casing enclosing the fitting was unusually hot suggesting that there may be a concealed electrical fault at this area.
15. Despite not forming part of the application the Tribunal are concerned that this may be a significant potential health and safety hazard warranting further investigation and strongly recommend an immediate detailed inspection and



report be commissioned from a suitably qualified electrical contractor. Any subsequent recommendations should be addressed with the minimum of delay.

### Decision

16. Following its inspection and the hearing, the Tribunal determined that:

- the House is not wind and watertight and in all other respects reasonably fit for human habitation
- fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order, and
- the House does not meet the tolerable standard in that the kitchen is not adequately ventilated.

### Summary of Decision

17. The Tribunal determines that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act, and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that the House is not wind and watertight and in all other respects reasonably fit for human habitation; fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order; and the House does not meet the tolerable standard in that the kitchen is not adequately ventilated.

18. The Tribunal therefore makes a repairing standard enforcement order as required by Section 24(2) of the Act.

### Right of Appeal

19. 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. 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.

**J Devine**

Signed

Joan Devine, Legal Member

*13 November 2019*

Date

Glasgow 13 November 2019. This is the  
Schedule of photographs referred to in  
the foregoing Decision. **J Devine**

Flat 0/2, 218 Allison Street Glasgow, G42 8RS

Legal Member

Schedule of Photographs taken at the inspection on 5 November 2019



(1) Front Elevation



(2) Seal around rim of bath



(3) Seal around bath rim & taps



(4) New floor boards below bath



(5) Rot in joist below bath



**(6) Hole in wall at condensate pipe**



**(7) Hole in rear bedroom wall at pipe**



**(8) Broken joint in condensate pipe**



**(9) Saturated floor below condensate pipe**



**(10) Damaged floor covering rear bedroom**



**(11) Replacement boiler**



**(12) Replacement "Yale" lock**



**(13) No visible external vent from kitchen**



**(14) & (15) Residual damage after removal of "loose hanging wall light fittings"**



**(16) Replacement cooker control unit**