

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

**Statement of Decision of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under section 60(5) of the
Housing (Scotland) Act 2006**

Chamber Ref: FTS/HPC/RP/22/1503

**1, The Old Waterhouse, Old Largs Road, Greenock, PA16 9AR being the
subjects registered in the Land Register of Scotland under Title number
REN121846 (“the Property”)**

The Parties:-

**Michelle Brandt residing at 1, The Old Waterhouse, Old Largs Road,
Greenock, PA16 (“The Tenant”)**

**Alexander Ewing and Mrs Maura Ewing residing at 12 Caddlehill Street,
Greenock, PA16 8TU (“The Respondents”)**

Tribunal Members:

Jacqui Taylor (Chairman) and Donald Wooley (Ordinary Member)

1. Background

1.1 The Tenant moved into the Property on 3rd January 2022 and commenced a private residential tenancy on that date. Alexander Ewing is heritable proprietor of the Property. The Applicant pays rent of £850 per month. The Applicant was not provided with a tenancy agreement.

1.2 The Tenant applied to the Tribunal for a determination of whether the Respondents have failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (‘the Act’).

2. Application

The application by the Tenant dated 20th May 2022 stated that she considered that the Respondents have failed to comply with their duty to ensure that the Property meets the repairing standard. She advised that the property is not wind and watertight and in all respects reasonably fit for human habitation; the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order; the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order; the fixtures, fittings and appliances provided by the Landlords under the tenancy are not in a reasonable state of repair and proper working order; that the Property does not have satisfactory provision for detecting fires and for giving warning in the

event of fire or suspected fire; the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous for health and the Property does not meet the tolerable standard.

In particular the application stated that the work that needed to be carried out was as follows:

- 2.1 There is a leak in the conservatory.
- 2.2 There is water ingress through the bedroom window.
- 2.3 There is water ingress from the window in the atrium on the top level of the property.
- 2.4 There are draughts under the doors and windows of the property.
- 2.5 The guttering around the front entrance/hallway of the Property is rotten and does not work effectively. A section of guttering is not attached.
- 2.6 The roofing and external wooden panels in the Property have not been fitted correctly or are broken.
- 2.7 The water pressure in the showers is very low.
- 2.8 In the bathroom on the top floor of the Property the cistern on the toilet takes around one hour to fill up after flushing and the water runs continuously whilst it is doing so.
- 2.9 The electrical sockets in the Property are not fitted correctly and the applicant believes that they are dangerous.
- 2.10 The applicant has not provided the certificates for the gas and electrical supplies.
- 2.11 The heating system is faulty and is not effective in heating the Property. Some radiators do not heat at all and some only release a low heat when turned up to the highest setting. The radiators have not been drained and cleaned.
- 2.12 There is a light socket and switch hanging out of a hole in the wall.
- 2.13 There are approximately ten recessed light fittings which require the light bulbs to be fixed and fitted as they are hanging out.
- 2.14 There is some laminate flooring missing in the hallway.
- 2.15 The carpets are a trip hazard as they are not fitted correctly. They are frayed in several areas and they are also stained.
- 2.16 The en suite bathroom next to the master bedroom has no lock on the door. It is a jack and jill bathroom as two other bathrooms can access it.
- 2.17 There are no towel rails in the bathroom.
- 2.18 The shower doors on both showers appear to have been incorrectly fitted or are the wrong size. Even when the doors are shut water escapes from the doors.
- 2.19 The skirting boards in the kitchen and living room are not fitted properly and are coming away from the walls, leaving gaps.
- 2.20 The piping behind the kitchen sink and living room are not fitted properly and are coming away from the walls, leaving gaps.
- 2.21 The applicant stored some plastic containers in this area and they filled with water which makes the applicant believe that there is excessive moisture coming from the area.
- 2.22 The fire alarm system in the Property is not working correctly.
- 2.23 The Respondent has not provided the Applicant with certificates for the carbon monoxide system.

- 2.24 The Property does not have a satisfactory provision for heating.
- 2.25 The electrical installation in the property does not comply with relevant requirements.
- 2.26 The water supply should be inspected and any remedial works carried out.
- 2.27 The Gas Safety Certificate has not been provided.

3. Repairing Standard Enforcement Order dated 30th September 2022 ('RSEO')

Following the hearing on 22nd September 2022 the Tribunal issued the RSEO in the following terms:

The Tribunal required the Landlords to:

1. *Instruct a suitably qualified electrical contractor to refit the fused electrical sockets within the kitchen cupboards, the light switch at the utility cupboard, all of the recessed light fittings currently suspended by wire from the ceilings and repair the defective electrical extractor fan in the utility area.*
2. *Exhibit a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT, or other suitable accredited registered scheme, who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category.*
3. *Exhibit a valid and compliant Gas Safety Certificate prepared by a suitably qualified gas engineer registered in the Gas Safe Register. In the event that any defects are identified in any gas appliance then these should be repaired as necessary.*
4. *Install:*
 - 4.1 *One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.*
 - 4.2 *One functioning smoke alarm in every circulation space, such as hallways and landings.*
 - 4.3 *One heat alarm in every kitchen and*
 - 4.4 *All alarms should be interlinked and the installation should comply with the regulations.*
5. *Install the carbon monoxide alarm in the proximity of the gas boiler in compliance with the regulations.*
6. *Replace missing guttering, reinstate or renew missing downpipe and repair or renew rotted eaves boards at front, single storey, entrance projection area.*
7. *Repair defective operating system at top floor bathroom wc cistern ensuring that it is fully functional and in proper working order.*

8. *Relay and/or refit those areas of carpet, specifically at the stairs and landing/transition areas of the upper floors, where the floor coverings are currently uneven, overlapping, ill-fitting or inadequately secured.*

9. *Refit or repair the door to the shower cubicle in the “Jack & Jill” bathroom, ensuring that it is fully functional and there is no visible gap between the shower door and the surrounding frame when in the closed position.*

10. *Repair “French doors” leading from the kitchen to the garden area, ensuring that both are fully functional and in proper working order.*

11. *Repair, replace or renew defective or missing coping stones at the retaining wall in rear garden, ensuring that they are securely attached to the brickwork.*

The Tribunal ordered that these works must be carried out and completed by 30th November 2022.

4. Re Inspection

The Tribunal attended at the Property at 10.00 am on 13th January 2023. The parties were present at the reinspection.

The reinspection report is attached as a Schedule to this Decision.

5. Hearing

This case called for a Hearing at 14.00 on 13th October 2022 at the Glasgow Tribunal Centre.

The parties were present.

5.1 Representations

Mr Ewing explained that the reason that all of the items have not been completed is that he had difficulty obtaining access for a number of his contractors. He confirmed that he had submitted a Right of Entry application to the Tribunal, which has been accepted. The Right of Entry Tribunal member has requested that access is made available on 31st January 2023. Mrs Brandt explained that she hoped to be able to provide access on 31st January 2023 but it will be subject to her having to rearrange some work commitments.

In connection with the requirements of the RSEO the parties advised as follows:

Item One: Instruct a suitably qualified electrical contractor to refit the fused electrical sockets within the kitchen cupboards, the light switch at the utility

cupboard, all of the recessed light fittings currently suspended by wire from the ceilings and repair the defective electrical extractor fan in the utility area.

The parties acknowledged that the electrical sockets within the kitchen cupboards had been repaired. Mrs Brandt pointed out that there was a gap around one of the sockets that had still to be repaired.

The parties acknowledged that the utility cupboard light switch and extractor fan had been repaired.

The parties agreed that all of the recessed lights, apart from those in the first floor bedroom/study had been repaired.

Item Two: Exhibit a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT, or other suitable accredited registered scheme, who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category.

The parties acknowledged that the EICR certificate had not been completed.

Item Three: Exhibit a valid and compliant Gas Safety Certificate prepared by a suitably qualified gas engineer registered in the Gas Safe Register. In the event that any defects are identified in any gas appliance then these should be repaired as necessary.

The parties acknowledged that the Gas Safety Certificate had not been completed.

Item Four: Install:

1 One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.

2 One functioning smoke alarm in every circulation space, such as hallways and landings.

3 One heat alarm in every kitchen and

4 All alarms should be interlinked and the installation should comply with the regulations.

The parties acknowledged that the required smoke and heat alarms had been installed.

Item Five: Install the carbon monoxide alarm in the proximity of the gas boiler in compliance with the regulations.

Mr Ewing advised that between the inspection and the hearing he had spoken to his contractor who had advised that he had installed a carbon monoxide alarm on the lefthand internal wall of the boiler cupboard. Mr Ewing

acknowledged that the Tribunal had not looked at the newly installed alarm at the inspection.

Item Six: Replace missing guttering, reinstate or renew missing downpipe and repair or renew rotted eaves boards at front, single storey, entrance projection area.

The parties confirmed that this work has been completed.

Item Seven: Repair defective operating system at top floor bathroom wc cistern ensuring that it is fully functional and in proper working order.

Mr Ewing confirmed that he had adjusted the cistern at the inspection and it was now working properly.

Item Eight: Relay and/or refit those areas of carpet, specifically at the stairs and landing/transition areas of the upper floors, where the floor coverings are currently uneven, overlapping, ill-fitting or inadequately secured.

The parties acknowledged that the carpet repairs have not been completed.

Item Nine: Refit or repair the door to the shower cubicle in the "Jack & Jill" bathroom, ensuring that it is fully functional and there is no visible gap between the shower door and the surrounding frame when in the closed position.

The parties acknowledged that the shower cubicle door has not been repaired.

Item Ten: Repair "French doors" leading from the kitchen to the garden area, ensuring that both are fully functional and in proper working order.

The parties acknowledged that the French doors had not been repaired. Mr Ewing explained that the lefthand door had been locked about three years ago, when the previous tenant had resided in the Property.

Item Eleven: Repair, replace or renew defective or missing coping stones at the retaining wall in rear garden, ensuring that they are securely attached to the brickwork.

Mrs Brandt explained that some of the coping stones had been repaired but some are still loose.

Mr Ewing advised that the coping stones had been repaired.

6. Decision

6.1 The Tribunal determined that the following items of the RSEO have been satisfactorily completed:

Item One (partly): Instruct a suitably qualified electrical contractor to refit the fused electrical sockets within the kitchen cupboards, the light switch at the

utility cupboard and repair the defective electrical extractor fan in the utility area.

Item Four: Install:

1 One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.

2 One functioning smoke alarm in every circulation space, such as hallways and landings.

3 One heat alarm in every kitchen and

4 All alarms should be interlinked and the installation should comply with the regulations.

Item Six: Replace missing guttering, reinstate or renew missing downpipe and repair or renew rotted eaves boards at front, single storey, entrance projection area.

Item Seven: Repair defective operating system at top floor bathroom wc cistern ensuring that it is fully functional and in proper working order.

Item Eleven: Repair, replace or renew defective or missing coping stones at the retaining wall in rear garden, ensuring that they are securely attached to the brickwork.

The Tribunal were satisfied that the six coping stones that were loose at the original inspection had been repaired.

6.2 In connection with the outstanding items the Tribunal agreed to extend the date for completion of these items to 30th April 2023. The outstanding items are:

Part of Item One: Instruct a suitably qualified electrical contractor to the recessed light fittings currently suspended by wire from the ceiling in the first floor bedroom/study.

Item Two: Exhibit a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT, or other suitable accredited registered scheme, who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category.

Item Three: Exhibit a valid and compliant Gas Safety Certificate prepared by a suitably qualified gas engineer registered in the Gas Safe Register. In the event that any defects are identified in any gas appliance then these should be repaired as necessary.

Item Five: Install the carbon monoxide alarm in the proximity of the gas boiler in compliance with the regulations.

Item Eight: Relay and/or refit those areas of carpet, specifically at the stairs and landing/transition areas of the upper floors, where the floor coverings are currently uneven, overlapping, ill-fitting or inadequately secured.

Item Nine: Refit or repair the door to the shower cubicle in the “Jack & Jill” bathroom, ensuring that it is fully functional and there is no visible gap between the shower door and the surrounding frame when in the closed position.

Item Ten: Repair “French doors” leading from the kitchen to the garden area, ensuring that both are fully functional and in proper working order.

7. The decision of the Tribunal was unanimous.

8. Appeals

A landlord or tenant 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.

J.Taylor

Chairperson

Date: 16th January 2023