

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber) Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006 Section 24)

Reference Number: FTS/HPC/RP/19/0332

Property: flat on the northwest side of the common close, Flat 0/2, 218 Allison Street, Glasgow, G42 8RS, being the subjects registered in the Land Register of Scotland under Title number: GLA45013 ("The Property")

The Parties:-

Ms Alina Munteanu, residing at Flat 0/2, 218 Allison Street, Glasgow, G42 8RS ("the Tenant")

and

Mrs Robina Rasul, residing at 54 Kilchattan Drive, Kings Park, Glasgow, G44 4PY ("the Landlord")

Tribunal Members:-

Mr Andrew Cowan – Chairperson

Mr Nick Allan – Surveyor Member

NOTICE TO

Mrs Robina Rasul, residing at 54 Kilchattan Drive, Kings Park, Glasgow, G44 4PY ("the Landlord")

Whereas in terms of their decision dated 12 April 2019, the First-tier tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the Landlord has failed to ensure that:-

- (a) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order (as required by section 13(1)(c) of the Act;
- (b) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and proper working order (as required by section 13(1)(d) of the Act.

The tribunal now requires the Landlord to carry out such works as are necessary for the purposes of ensuring that the Property concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the tribunal requires the Landlord to:-

- (a) Carry out such works as are necessary to ensure that the kitchen sink is in a reasonable state of repair and proper working order;
- (b) Carry out such works as are necessary to ensure that the washing machine within the Property is in a reasonable state of repair and proper working order.

The First-tier Tribunal order that the works specified in this Order must be carried out and completed within the period of 4 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 Repairing Standard Enforcement Order ("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 agreement 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 two pages only are signed by Andrew Cowan, chairperson of the tribunal at Glasgow on 12 April 2019 before this witness:-

A Cowan

Andrew Cowan, Chairperson
J Glasgow

Witness

JENNIFER GLASGOW

Full name

LEGAL SECRETARY

Designation

7 West George Street,
Glasgow,
G2 1BA

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)

Chamber Ref: FTS/HPC/RP/19/0332

Property: flat on the northwest side of the common close, Flat 0/2, 218 Allison Street, Glasgow, G42 8RS, being the subjects registered in the Land Register of Scotland under Title Number: GLA45013 ("The Property")

The Parties:-

Ms Alina Munteanu, residing at Flat 0/2, 218 Allison Street, Glasgow, G42 8RS ("the Tenant")

and

Mrs Robina Rasul, residing at 54 Kilchattan Drive, Kings Park, Glasgow, G44 4PY ("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 Landlords have complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property concerned, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Tribunal consisted of:-

Mr Andrew Cowan – Chairperson

Mr Nick Allan – Surveyor Member

Background

1. By an Application to the Housing and Property Chamber, dated 30 January 2019, the Tenant applied for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").

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2. The Application by the Tenant states that the Tenant considers that the Landlord has failed to comply with her duty to ensure that the Property meets the repairing standard and in particular that the Landlord has failed to ensure that:-
 - (a) The Property is wind and water tight and in all other respects reasonably fit for human habitation (as required by section 13(1)(a) of the Act);
 - (b) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order (as required by section 13(1)(c) of the Act);
 - (c) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order (as required by section 13(1)(d) of the Act);
3. The Tenant noted in her Application that she considers that repairs are required to bring the Property up to the repairing standard. The Tenant alleged that:-
 - (a) There is no hot water in the property;
 - (b) The washing machine is broken;
 - (c) The fridge is broken;
 - (d) There are holes in the kitchen sink; and
 - (e) There is a cockroach infestation.
4. By letter dated 13 February 2019, the President of the Housing and Property Chamber intimated a decision to all parties to refer the application under Section 22 (1) of the Act to a Tribunal.
5. The Tribunal inspected the Property on 9 April 2019. The Tenant was present during the inspection. The Tenant's Representative, Mr Chris Waite, case worker from Govanhill Law Centre, was also present at the inspection. The Landlord did not attend the inspection and was not represented at the inspection.
6. Following the inspection of the Property the Tribunal held a hearing at Glasgow Tribunal Centre, 20 York Street, Glasgow, G2 8CT. Neither the Tenant or the Landlord attended the hearing. The Tenant was represented at the hearing by Mr Chris Waite, case worker, Govanhill Law Centre.
7. Photographs were taken during the inspection of the Property by the Tribunal. Copies of the photographs taken by the Tribunal are attached as a schedule to this report.

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Findings of fact

8. The Tribunal finds the following facts to be established:-

- (a) The Tenant of the Property is Ms Anila Munteanu in terms of an Assured Tenancy Agreement between the parties dated 16 May 2018;
- (b) The owner of the Property is Mrs Robina Rasul, residing at 54 Kilchattan Drive, Kings Park, Glasgow, G44. She is the Landlord of the Property in terms of the tenancy between the parties;
- (c) The tenancy between the parties was continuing as at the date of the hearing in relation to the Tenant's application;
- (d) In terms of letters dated 13 November 2018, 5 December 2018 and 25 January 2019 the Tenant's Representative, on behalf of the Tenant, intimated to the Landlord's representatives that work required to be carried out to the Property for the purposes of ensuring that the Landlord complied with the duties imposed by Section 14(1)(b) of the Act.
- (e) A new boiler was installed by the Landlord after the application was raised. The new boiler now supplies hot water to the property;
- (f) The washing machine provided by the Landlord as part of the fittings and fixtures under the tenancy is not in a reasonable state of repair or proper working order;
- (g) The fridge which had been provided by the Landlord as part of the fixtures and fittings of the tenancy has been removed by the Tenant;
- (i) The kitchen sink in the property does have holes which cause it to allow water to pour into the cupboard beneath the sink. The sink is not in a reasonable state of repair and in proper working order;
- (j) There is no continuing infestation of cockroaches within the property;

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Reasons for the decision

9.

- (a) The Tenant complained in her Application that there was no running hot water within the Property. At the time of the Tribunal's inspection of the Property the Landlord had carried out repairs to the Property and had installed a new boiler. As a consequence as at the date the Tribunal inspected the Property there was hot water within the Property. In the circumstances the Tribunal determined that the Landlord had not failed to comply with the Repairing Standard in relation to this matter.
- (b) The Tenant had complained in her Application that the fridge which had been provided by the Landlord was not in a proper state of repair. By the date the Tribunal inspected the Property the Tenant had disposed of the fridge. The Tribunal were accordingly not able to determine whether the fridge was, or was not, working. The Tribunal therefore were unable to determine that there had been any failure by the Landlord to comply with the Repairing Standard in relation to this matter.
- (c) The Tenant had complained in her Application that there were holes in the kitchen sink. At the time of their inspection the Tribunal noted that there were missing parts for the sink and in particular the cover for the overflow pipe and the cover for an alternative tap location were missing. As a consequence the sink was capable of overflowing and allowing water to leak to the cupboard below the sink. The Tribunal further noted that the pipework below the sink showed evidence of sweating which suggested that there were problems with the pipework either at the seal or with a cracked pipe.

The kitchen sink is an installation for the supply of water. It is not in a reasonable state of repair and a proper working order. The Tribunal accordingly determined that the Landlord has failed to ensure that the kitchen sink meets the Repairing Standard.

- (d) The Tenant had complained in her Application that there was a cockroach infestation throughout the Property. At the date that the Tribunal inspected the Property the Tribunal noted that the local authority had carried out works within the Property and had eradicated any cockroach infestation. In the circumstances therefore the Tribunal were not satisfied that there was any evidence of a continuing failure by the Landlord to comply with the Repairing Standard in relation to this matter.

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- (e) The Tenant had complained that the washing machine which had been supplied by the Landlord was broken. As at the date of the inspection of the Property the Tribunal noted that the washing machine appeared not to function correctly. The Tenant explained that the washing machine did not operate cycles correctly and that water backed up from the washing machine through the sink. In the circumstances the Tribunal were satisfied the washing machine (as an appliance provided by the Landlord under the tenancy) was not in a reasonable state of repair or proper working order and that the Landlord had failed to comply with the duty to meet the Repairing Standard in relation to this matter.

Decision

10. The Tribunal accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
11. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act. In particular the Tribunal determined to require the Landlord to carry out such works as are necessary to ensure that the kitchen sink and the washing machine were repaired so that they were both in a reasonable state of repair and in proper working order.
12. The decision of the Tribunal was unanimous.

Observations

13. During the course of their inspection of the Property the Tribunal were concerned to note that there were a number of matters of safety concern within the Property.
- (a) The Tribunal noted a burnt out cooker switch and socket unit in the rear room of the Property.
- (b) The Tribunal noted that there were loose hanging wall light fittings in the lounge.
- (c) The Tribunal noted that the extractor fan in the enclosed kitchen of the Property was not operating. The location of a gas cooker in a small internal room with no natural ventilation and a low ceiling was a matter of significant concern to the Tribunal.
- (d) The Tribunal noted that a new boiler had recently been installed at the Property but the Tenant had not appear to receive a gas safety certificate.

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- (e) The Tribunal noted that the flooring below the site of the new boiler and below the adjacent window have significant dampness. The flooring was badly damaged.
- (f) The Tribunal noted that the smoke detectors which were fitted within the Property did not appear to be operating correctly or in proper working order.
- (g) The Tribunal noted that there was no heat detector located in the kitchen.
- (h) The Tribunal noted that the bathroom light was exposed and not an appropriate fitting for a bathroom.
- (i) The Tribunal noted that there was an extensive hole from the outside of the Property into the rear room of the Property.
- (j) The Tribunal noted the front door of the Property was not capable of being closed or secured.

In the circumstances the Tribunal strongly recommend that the Landlord:-

- (a) Ensures there is a full electrical inspection condition report completed in respect of the Property and that any works recommended by that report are completed immediately.
- (b) The Landlord should exhibit a gas safety certificate to the Tenant.
- (c) The Landlord should take such steps are necessary to ensure that the fire detection equipment situated within the Property is operating correctly.
- (d) The Landlord should investigate the cause of dampness at floor level in the rear room of the Property and carry out such repairs as are necessary to eradicate such dampness.
- (e) The Landlord should repair the hole in the wall of the Property to ensure that the Property is wind and water tight.
- (f) The Landlord should repair the front door of the Property so that it can be properly locked and secured.

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The Tribunal cannot make any order in relation to these observations. These matters had not been raised by the Applicant nor previously intimated to the Landlord. Notwithstanding this, the Tribunal are concerned as to the health and safety of the Tenant and other occupants of the Property and The Tribunal recommend that works are taken forward by the Landlord as a matter of urgency to address the issues raised in these observations.

Right of Appeal

14. 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.

Effect of section 63

15. 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.

A Cowan

Signed

Andrew Cowan, Chairperson

Date 12 April 2019

J Glasgow

.....Witness

Jennifer Glasgow, Secretary, 7 West George Street, Glasgow, G2 1BA

Housing and Property Chamber First-tier Tribunal for Scotland



Photograph Schedule

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

Case Reference: FTS/HPC/RP/19/0332

Date of inspection: 09/04/2019

Time of inspection: 10.00 am

Weather conditions: Clear and bright

Present: Mr Andrew Cowan – Legal Member
Mr Nick Allan – Ordinary Member
Mrs Alina Munteanu - Tenant
Mr Chris Waite – Govanhill Law Centre



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Photo 1 – Front elevation



Photo 2 – Kitchen sink



Photo 3 – Sink pipework



Photo 4 – Washing machine



Photo 5 – Entrance door locks



Photo 5 – Kitchen extractor fan



Photo 6 – Kitchen wall light



Photo 7 – 1st Lounge wall light



Photo 8 – 2nd Lounge wall light



Photo 9 – Damaged socket



Photo 10 – Carbon monoxide unit



Photo 11 – Gas cooker



**Photo 12 – Gas boiler
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Photo 13 – Hall smoke alarm



Photo 14 – Lounge smoke alarm



Photo 15 – Kitchen smoke alarm



Photo 16 – Kitchen door vent



Photo 17 – Hole in rear wall



Photo 18 – Hole in rear wall

Nick Allan – Ordinary Member
First-tier Tribunal
Housing and Property Chamber – 11th April 2019