

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Chamber Ref: PRHP/RP/16/0370**

**Property Description: Flat 2/2, 13 Southcroft Street, Glasgow, G51 2DH registered under title number GLA4745 ("The House")**

**The Parties:-**

**Alastair Orr, residing at the House ("the Tenant")**

**Panettone Properties Limited, having its registered office at c/o Consilium Chartered Accountants, 169 West George Street, Glasgow G2 2LB (represented by their agent MacLeod Lettings, Ruthven Mews, 55 Ruthven Lane, Glasgow G12) ("the Landlord")**

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

### **DECISION – 2/2, 13 Southcroft Street, Glasgow**

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 House and taking account of all the available evidence determines that the Landlord has not failed to comply with the duty imposed on it by Section 14(1)(b) of the Act. The Tribunal's decision is unanimous.

### **Background**

1. By application dated 19 October 2016 and received on 24 November 2016, the Tenant applied to the Private Rented Housing Panel for a determination that the Landlord had failed to comply with its duties under Section 14(1) of the Act. With effect from 1 December 2016 the Private Rented Housing Panel has been incorporated into the Tribunal.

2. In this application, the Tenant stated that he believed that the Landlord had failed to comply with its duty to ensure that the property met the repairing standard as set out in Sections 13(1)(b),(c),(d),(e) and (f) of the Act. His application stated that the Landlord had failed to ensure that :
  - 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;
  - the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and proper working order;
  - the fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order;
  - the furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed; and
  - the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire;
3. The Tenant made the following complaints in his application and in his notification letter to the Landlord :
  - bath panels are made of wood and are rotten;
  - since the replacement of the bath panels, there was a gap between the panel and the floor which leaked
  - carpet tiles unhygienic
  - trip hazard between the hall and the bathroom
  - peeling wallpaper
  - middle window in the living room is draughty
  - mold on the windows in the bedroom and living room
  - broken floorboard in the bedroom
  - hole in bathroom floor and lino needs replaced
  - plug socket in living room is cracked
4. On 23 December 2016, the Convenor of the Private Rented Housing Panel issued a Minute of Decision stating that she considered that in terms of Section 23(3) of the Act, there was no longer a reasonable prospect of the dispute being resolved between the parties at a later date; that she had considered the application paperwork submitted by the Tenant comprising the application form dated 19 October 2016 and documents received between 24 November and 22 December 2016; and intimating her decision to refer the application to the Tribunal for determination.
5. The Clerk to the Private Rented Housing Panel wrote to the Tenant, the Landlord and to the Landlord's agent, MacLeod Lettings, on 26 January 2017 notifying them under and in terms of the Act of the decision to refer the application under Section 22(1) of the Act to the Tribunal and that an inspection

and a hearing would take place on 24 February 2017. A written representation was received from the Tenant dated 1 February 2017. No written representations were received from the Landlord.

### **The Inspection**

6. The Tribunal inspected the House on the morning of 24 February 2017. The weather conditions at the time of the inspection were cold and clear. The Tenant was present at the House during the inspection. The Landlord's agents, Ross MacLeod and Helen Hall of MacLeod Lettings were also present 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 second floor flat within a four storey red sandstone tenement estimated to be in the region of 115 years old. The House comprises: hallway, living room, bedroom, kitchen and bathroom. It is located in a predominantly residential area within the Govan district of Glasgow and around 3 miles south of the city centre.

### **The Hearing**

8. Following the inspection, the Tribunal held a hearing at Wellington House, 134-136 Wellington Street, Glasgow, G2 2XL. The Tenant was not present. The Landlord was represented by Ross MacLeod and Helen Hall of MacLeod Lettings.

### **The Evidence**

9. The evidence before the Tribunal consisted of:
  - the application form completed by the Tenant;
  - Registers Direct print for title number GLA4745 relating to the House;
  - letter of notification from the Tenant to the Landlord's agent notifying it of the various issues complained about in his application together with certificate of posting dated 5 December 2016;
  - representations received from the Tenant dated 1 February 2017
  - the Tribunal's inspection of the property;
  - the oral representations on behalf of the Landlord.

### **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 it by Section 14(1)(b) of the Act.

### **Findings in Fact**

11. The Tribunal made the following findings in fact:

- the Tenant had lived in the House since June 2013. He entered into a Tenancy Agreement at that time with Tony Conetta. Title to the House is held by Panettone Properties Limited. Tony Conetta is the sole shareholder in and director of Panettone Properties Limited. The Landlord is Panettone Properties Limited. The tenancy is a tenancy of a house let for human habitation, which does not fall within the exceptions set out in Section 12(1) of the Act. The provisions set out in Chapter 4 of the Act therefore apply;
- the tenancy of the House is managed by the Landlord's agent, MacLeod Lettings, Ruthven Mews, 55 Ruthven Lane, Glasgow G12;
- the Tribunal in its inspection carefully checked the items which were the subject of the application. The Tribunal observed the following:
  - (a) the wooden bath panel had been replaced with a plastic bath panel;
  - (b) the carpet tiles in the bathroom had been removed;
  - (c) the vinyl floor covering in the bathroom had a tear at a location between the sink and the WC;
  - (d) the floor level between the bathroom and the hall was uneven;
  - (e) a floorboard just inside the bedroom door moved slightly underfoot;
  - (f) the wallpaper in the living room was peeling;
  - (g) the defect in the window in the living room which had caused a draught had been rectified;
  - (h) the cracked plug socket in the living room had been replaced; and
  - (i) there was mould present on the window frame in the living room and the bedroom.

### **Reasons for Decision**

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

- 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;
- the installations in the House for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and proper working order;

- the fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order;
  - the furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed; and
  - the House has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire;
13. The complaints before the Tribunal as set out in the Tenant's application and the Tribunal's determinations in relation to each of these are set out below.

#### **Bath Panel**

14. The Tenant told the Tribunal that the wooden bath panel had been replaced.
15. On the basis of its inspection, the Tribunal found that the complaint regarding this issue had been dealt with.

#### **Carpet Tiles**

16. The Tenant told the Tribunal that the carpet tiles in the bathroom had been removed.
17. On the basis of its inspection, the Tribunal found that the complaint regarding this issue had been dealt with.

#### **Bathroom Floor**

18. In his letter of 5 December 2016 to the Landlord's agent, the Tenant had made reference to a hole in the bathroom floor and a concern regarding the condition of the vinyl. At the inspection, the Tribunal noted that there was a split in the vinyl at a location between the wash hand basin and the WC. The Tribunal noted that there was not a hole in the floor. The vinyl was otherwise in a reasonable state of repair. The split in the vinyl is thought to have been caused by wear and tear.
19. On the basis of its inspection and the other evidence before it, the Tribunal found that the condition of the vinyl in the bathroom did not result in a failure to comply with Section 13(1)(d) of the Act.

#### **Trip Hazard**

20. The Tenant drew the Tribunal's attention to the difference in the floor level between the bathroom and the hall. The Tenant expressed the view that this caused a trip hazard. At the hearing, Mr Macleod on behalf of the Landlord, expressed the view that there was a slight difference in the floor level between the bathroom and the hall. He did not accept that this was a trip hazard.
21. On the basis of its inspection and the evidence before it, the Tribunal determined that the differential in floor level between the bathroom and the hall

did not constitute a trip hazard and did not result in a failure to comply with Section 13(1)(b) of the Act .

### **Loose Floorboard in Bedroom**

22. The Tenant told the Tribunal that the floorboard just inside the bedroom was loose. At the hearing, Mr Macleod indicated that he was not concerned that the loose floorboard in the bedroom would cause any difficulty. He noted that the Tenant had indicated he was shortly to vacate the House. Mr Macleod said that the Landlord would investigate the floorboard when the House became vacant. At the inspection the Tribunal noted that there was some movement in the floorboard.
23. On the basis of the evidence before it, including its inspection, the Tribunal determined that the condition of the floorboard did not constitute a failure on the part of the Landlord to comply with Section 13(1)(b) of the Act.

### **Wallpaper in Living Room**

24. The Tenant drew the Tribunal's attention to the wallpaper peeling in the living room. At the hearing, Mr Macleod confirmed that the wallpaper had been in place since the Tenant had taken up occupation. The inspection was the first time at which Mr Macleod had become aware that the wallpaper was peeling. The Tribunal noted that the wallpaper appeared to be vinyl wallpaper placed on top of existing vinyl wallpaper.
25. The Tribunal determined that the peeling wallpaper was cosmetic and did not amount to a failure on the part of the Landlord to comply with the repairing standard in Section 13(1)(d) of the Act.

### **Windows**

26. The Tenant told the Tribunal that the window in the living room had been draughty. He told the Tribunal that a tradesman had attended the House and had rectified the defect in the window, which was no longer draughty.
27. The Tenant drew the Tribunal's attention to mold on the window frame in the living room and in the bedroom. At the hearing, Mr Macleod told the Tribunal that, in his view, the mold on the window frame in the living room and the bedroom had been caused by condensation, and it was a matter for the Tenant to resolve that by cleaning the window. Mr Macleod told the Tribunal that the difficulty with the window which had caused it to be draughty was that a hinge had needed adjustment. This work had been carried out.
28. On the basis of the evidence before it, including its inspection, the Tribunal determined that the House was wind and watertight. The Tribunal determined that the mold on the window frame in the living room and the bedroom did not constitute a failure to comply with the repairing standard in Section 13(1)(b) of the Act .

### **Damaged Socket in Living Room**

29. The Tenant told the Tribunal that the cracked socket in the living room had been replaced by the Landlord. Mr Macleod confirmed that this was the case.
30. On the basis of the evidence before it, including its inspection, the Tribunal determined that, following replacement of the cracked socket, there had not been a failure to comply with the repairing standard set out in Section 13(1)(c) of the Act.

### **Observations by the Tribunal**

31. In his application, the Tenant had indicated that there had been a failure to comply with the obligation on the Landlord to provide satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire. At the inspection, the Tribunal noted that there were smoke alarm present in the hallway and livingroom, a heat detector was present in the kitchen and that the Landlord had not failed to comply with the obligation in Section 13(1)(f) of the Act.

### **Summary of Decision**

32. The Tribunal determined that the Landlord has complied with the duty imposed by Section 14(1)(b) of the Act. The Tribunal will not, therefore, make a repairing standard enforcement order in terms of Section 24(2) of the Act.

### **Right of Appeal**

33. 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 on any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

J Devine

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Signed  
Joan Devine, Legal Member

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Date

23 March 2017

**Schedule of Photographs:**

**Flat 2/2, 13 Southcroft Street, Glasgow**

**24 February 2017**







