



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **MAN/00CX/HIN/2020/0015**

Property : **108 Harewood Street, Bradford BD3 9DS**

Applicant : **Mr Iftikhar Ahmed**

Respondent : **City of Bradford Metropolitan District Council**

Type of Application : **Housing Act 2004 – Schedule 1,
Paragraph 10(1) – Improvement Notice**

Tribunal Members : **Tribunal Judge P Barber
Mr J Platt FRICS**

Date of Determination : **16 October 2020**

Date of Decision : **28 October 2020**

DECISION AND REASONS

Decision

1. The Tribunal confirms the Improvement Notice and Prohibition Notice dated 06 February 2020.
2. Having considered rule 31(2) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013, the Tribunal is satisfied that each party to the application has given consent to the Tribunal proceedings without a hearing. Having considered the overriding objective in rule 3 of those Rules, the Tribunal also considers that it is in the interests of justice to proceed without a hearing.

Reasons

3. On the 13 January 2020, the Respondent (“CBMDC”) received a report from the occupant of 108 Harewood Street, Bradford, BD3 9DS (“the Property”) that there were rats in the kitchen and that holes and cracks were present in the walls of the bedrooms. Subsequently, the Respondent served, on the 15 January 2020, a Notice of Entry on the owner of the property (the Applicant, Mr Iftikhar Ahmed) indicating that an inspection would take place on the 22 January 2020.
4. At that inspection it was noted that there was evidence of rat infestation in the kitchen; that the fire detection system was inadequate and that the property was overcrowded (there was 1 adult and 5 children living in the one-bedroom property) and following a calculation under the Housing Health and Safety Rating System, the Respondent determined that 4 category 1 hazards and 8 category 2 hazards were present at the property.
5. On the 06 February 2020 the Respondent served an Improvement Notice under section 11 and 12 of the Housing Act 2004 on this Applicant at his home address. A copy of the Improvement Notice is contained in Appendix 5 of the Respondent’s statement of case. The Improvement Notice gave the Applicant until the 09 March 2020 to start the works and 06 April 2020 to complete the works.
6. At the same time, a Suspended Prohibition Order was served as reproduced in Appendix 6 of the Respondent’s Statement of Case in relation to the overcrowding.
7. On the 27 February 2020, the Applicant appealed that Improvement Notice to the First-tier Tribunal. His grounds of appeal are set out in box 16 of the application and in short, he takes issue with the works as follows:
 - a. The installation of an interlinked fire alarm system is not mandatory and unnecessary in his property; a battery-operated system should suffice.
 - b. There is no need to put 4 double sockets in the lounge as it is only a small room.

- c. The kitchen lino was damaged by the tenant and should not be his responsibility.
8. The Applicant mentions other reasons in box 16 and on the 14 June 2020 in a more detailed “Appeal Statement” the Applicant set out his reasons for appealing in more detail.
9. The Respondent responded to each of the grounds of appeal in its “Statement of Reasons for Opposing the Appeal” dated 02 July 2020.
10. In arriving at its determination, the Tribunal took into account both of those documents but conducted its own “re-hearing” of those issues.

The Legislative Background

11. It is generally unnecessary for the Tribunal to rehearse the legislative background to this application as both parties to this appeal are fully conversant with the legislative provisions underpinning the Respondent’s responsibility to access and assess properties in its administrative region for the purpose of health and safety in cases where it has reasonable cause to believe a hazard exists in relation to that property.
12. Generally, Chapter 1 of Part 1 of the Housing Act 2004 (the “Act”) established a scheme known as the Housing Health and Safety Rating System (HHSRS) against which a Local Authority is to consider the standard of amenities and accommodation present in privately rented properties. Section 3 of that Act places a responsibility on a local housing authority to review housing conditions in their district and to carry out inspections for the purposes of that responsibility. In the event that such an inspection identifies either a category 1 hazard, the housing authority must take appropriate action, which includes the service of an improvement notice under section 11 of the Act and a prohibition order under section 20. In relation to category 2 hazards, the local housing authority may serve an improvement notice.
13. Section 13 of the Act sets out the required contents of an improvement notice and we are satisfied that the improvement notice, the subject of this appeal, complies with the requirements of that section. Likewise, section 22 provides for the contents of a prohibition order and we are again satisfied that the subject prohibition order complies with the requirements of that section.
14. Part 3 of Schedule 1 to the Act provides that a person upon whom an improvement notice is served may appeal to the Tribunal and paragraph 15 of Schedule 1 provides that the appeal is to be by way of a re-hearing and under paragraph 16, the Tribunal may confirm, quash or vary the improvement notice.

On the issue of an Inspection

15. As mentioned above, neither party requested an oral hearing of the issues in this appeal and neither did the Tribunal consider it necessary that a hearing be convened to address those issues. The Tribunal did not conduct an inspection of the property. On the basis of the evidence in the papers the Tribunal did not consider it necessary to conduct an inspection.

Our Findings of Fact

16. As mentioned we did not inspect the property or hold an oral hearing but we had the benefit of arguments on behalf of both the Applicant and the Respondent, the Respondent's HHSRS score together with colour photographs of the condition of the property. We felt able, therefore to make our own findings of fact in relation to each of the hazards identified in the improvement and prohibition notices.

Fire Safety Precautions

17. The Respondent identified a fire risk at the property in that the fire alarms at the property were not working and were not of a specification which would provide an adequate level of fire protection. The Applicant argues that at the date the tenant moved into the property the smoke alarms were tested and there is no mandatory requirement to have a mains-tested system installed as the property is not a HMO.
18. Having considered the arguments, we entirely agree with the Respondent in its response. The property is a back-to-back terrace property with one exit via the living room and kitchen from the upstairs bedroom. We agree with the Respondent that this type of property requires special consideration as having a high-risk layout. At the time of the Respondent's inspection, the property had two battery operated fire alarms, neither of which were in working order. Having regard to the structure of the property and the guidance on fire safety provisions set out in the Lacors guidance, we agree with the Respondent that the property should have the benefit of mains wired BS5839: Part 6 Grade D LD2 fire alarm system with lined smoke alarms sited at each landing level and in the self-contained basement room.
19. We accordingly agree with the requirements under paragraph 1.1 of schedule 2 to the improvement notice.

The Provision of Electric Sockets

20. The Respondent identified a fire risk as a result of a lack of sockets within the lounge and bedroom through the overloading of circuits and trailing wires from extension leads. In response the Applicant argues that the requirement to have 4 double sockets in the lounge and 2 in the bedroom at a height of at least 1.2 metres above floor level "does not

make sense” and that the rooms are of a size which should not require so many sockets.

21. Having considered the guidance issued by the Office of the Deputy Prime Minister issued under section 9 of the Act we agree that the lack of available sockets is a relevant and important consideration in relation to fire safety. We note above that this is a property with a restricted escape route and the use of extension leads and trailing cabling should be discouraged. We agree with the Respondent that in order to discourage their use the property should have the benefit of sufficient sockets at an appropriate height in each of the rooms and we think that there should be two double sockets above worktop height and one at low level in the kitchen; four double sockets in the lounge and two double sockets in the bedroom. This was sufficient to enable the occupier to operate a number of electrical devices in each of the rooms as appropriate without the need to use extension cables.
22. We accordingly agree with the requirements under paragraph 1.2 of the improvement notice.

Falls on Level Surfaces

23. The improvement notice identified loose, uneven and missing flagstones to the side of the property and ripped lino in the kitchen with a requirement to secure the former and replace the latter. In response the Applicant argues that he is happy to pay to repair the flagstones but requires an improvement notice to be served on the 3 other owners who share responsibility. In relation to the ripped lino, the Applicant argues that as the lino was ripped by the tenant, she is responsible to fix it.
24. In relation to both of these issues and having considered the photographs and the arguments of the Respondent, we agree that the terms of the improvement notice should stand. The flagstones are clearly a tripping hazard and, even though there are others who might be jointly responsible for the cost of the repairs the Applicant himself is also responsible. The Respondent was justified in identifying this tripping hazard and requiring him to remedy it. We also agree with the Respondent that the Applicant cannot absolve himself from responsibility to reduce the tripping hazard in the kitchen by claiming the lino was ripped by the tenant. As mentioned by the Respondent, it is his responsibility to remedy the hazard and any associated costs could quite reasonable be the subject of a deduction from the tenancy deposit (in accordance with the various statutory requirements in relation to the use of tenancy deposits).
25. It follows that we agree with the Respondent and uphold paragraph 2.1 and 2.2. of the improvement notice.

Domestic Hygiene, pests etc

26. Here the Respondent has identified the existence of a rodent infestation in the property and requires appropriate remedial action to investigate and eradicate the problem together with sealing up the various holes and gaps identified in the photographs around the skirting board, floor joists and walls of the property. In response the Applicant argues that the existence of rats and mice is a general one in the street and that appropriate notices should be served on other properties in the area. He also argues that the tenant is leaving rubbish on the floor.
27. Having considered the issue we decided that the Applicant remains responsible for the eradication and prevention of rodent infestation at the property. It is no excuse to argue that other properties are equally afflicted. We agree with the Respondent that if the property has adequate design and prevention measures in place with appropriate waste disposal this should go some significant way to remedying the issue.
28. Accordingly, we uphold paragraphs 3.1 and 3.2 of the improvement notice.

Excess Cold

29. This relates to the lack of any fixed heating system in the bathroom and a requirement to install a suitable, controllable and energy efficient form of heating by either extending the existing central heating system in the property or the installation of separate heaters. The Applicant argues that the bathroom is not large enough to enable the installation of any form of heating and other houses on the street lack heating in the bathroom.
30. Having considered the photographs and the layout of the bathroom we disagree with the Applicant that there is no space for a fixed heating system within the bathroom. We think there is ample room to install a fixed electric heater or extend the central heating by the addition of a further radiator in the bathroom. We also disagree with him that there is no need to install a heater in the bathroom. We think that in order to reduce the presence of excessive cold in a room where the occupant would wash and bathe, it is necessary to have appropriate fixed heating.
31. Accordingly, we uphold paragraph 4.1 of the improvement notice.

Personal Hygiene, Sanitation and Drainage

32. There are three issues under this heading relating to a blocked gulley in the yard to the property; renewal or repair of a leaking waste pipe; replacement of the bathroom light switch pull-cord and the need to remedy a leak from the bathroom to the kitchen ceiling. In relation to each of these the Applicant argues that the leaking pipe belongs to another dwelling; the tenant is responsible for the removal of the pull-

cord and the leak was caused by the tenant whilst washing in the bathroom.

33. We carefully considered each of these issues and decided as follows. In relation to the blocked gully, we are satisfied it was blocked at the time of the inspection and that it is a category 2 hazard requiring remedial action. The Applicant has only raised an issue with the leaking pipe but again having considered the issue we are satisfied that the pipe serves the wash hand basin and bath and is the Applicant's responsibility. For the reasons already given in relation to the use of the tenancy deposit, we are also satisfied that, notwithstanding who or why the pull cord was removed, it remains the Applicant's responsibility to fix it and whilst the leak may well have stopped, the risk of mould formation and structural damage meant that it was appropriate to investigate the source of the problem and carry take remedial steps to prevent its recurrence. It appears that the Applicant may well have located the source of the leak, but there is no indication that he is willing to take steps to prevent its recurrence (by the proper installation of appropriately sealed sanitary appliances).
34. Accordingly, we agree with the Respondent Authority and uphold paragraphs 5.1, 5.2, 5.3 and 5.4 of the improvement notice.

Flames and Hot Surfaces

35. This relates to a requirement to box in the pipes underneath the boiler in the kitchen.
36. The Applicant does not appear to take issue with this requirement and having considered the photographs and the risk of injury from scalds upon contact we think that the requirement in paragraph 6.1 of the improvement notice is justified and we uphold the same.

Electrical

37. Paragraph 7.1 of the improvement notice relates to the presence of exposed wiring to the bathroom ceiling which should be removed or recovered. The Applicant does not appear to take issue with this and again we agree with the requirements in the improvement notice and uphold this paragraph.
38. Finally, paragraph 7.2 relates to the poor condition of the electrical consumer unit and the requirement to cover it. The requirement here is that the consumer unit should be replaced. The Applicant argues that the unit had a cover on when he let the property; that it is still working (and presumably by definition it cannot be in a poor condition) and that he has tried to get an electrical engineer to visit but Covid-19 has created a problem.
39. Having considered the photographs and the Applicant's arguments we are satisfied that the consumer unit has a missing cover and that it is

indeed an old and probably out of date consumer unit. As a result of the electrical hazards identified in the property (see above) we agree with the Respondent that it is appropriate to direct a full periodic electrical inspection of the property by an appropriately authorised competent person and that a copy of that inspection report should be provided to the Respondent.

40. Accordingly, we agree with the requirements of paragraph 7.2 and 7.3 of the improvement notice and uphold the same.

Overcrowding and the Prohibition Notice

41. Finally, there is the issue of overcrowding and the suspended prohibition notice. At the time of inspection, the one-bedroom property was occupied by an adult tenant and 5 children (1 male and 4 female) aged 4 (male) and 14, 10 and 6 months (female) the age of the fourth female child is not mentioned. By any stretch of the imagination the property is significantly overcrowded with the resultant risk to the mental and physical health of the occupants, including the increased risk of accidents and the spread of contagious disease. It is not entirely clear what the Applicant's argument with this is, but he seems to suggest in the appeal that the tenant herself is to blame and has only made a complaint as she wants to be rehoused.
42. We reject entirely the Applicant's arguments in relation to the issue of overcrowding and find as fact that the property is significantly overcrowded. The extent of the overcrowding in the property gives rise to a category 1 hazard exists by reason of this overcrowding and that by virtue of that overcrowding it is appropriate to make a prohibition order under section 20 of the Act.

Mr P Barber
Judge of the First-tier Tribunal
28 October 2020