

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision with Statements of Reasons by the First-tier Tribunal for Scotland (Housing and Property Chamber) in an Application under Section 48 of the Housing (Scotland) Act 2014 ("The Act")

Chamber Ref:

Re: FTS/HPC/LA/23/2205

Parties:

Mr Antonio Lipari, Flat 1/2 , 5 Gogar Place, Glasgow, G33 2JH ("the Applicant")

D.J. Alexander Lettings Ltd, 52-54 Dundas Street, Edinburgh ("the Respondent")

The Tribunal comprised:-

Mr Andrew McLaughlin-
Ms Elaine Munroe -

Legal Member
Ordinary Member

Background

[1] The Applicant seeks a Letting Agent Enforcement Order in respect of alleged breaches of the Letting Agent Code of Practice "The Code". The allegations cover alleged failures by the Respondent to repair promptly the Applicant's boiler which broke down and became faulty. It took 21 days for the boiler to be repaired and during this period the Applicant was without heating and warm water. The Applicant alleges that the Respondent has breached sections 90, 91 and 93 of the Code.

Procedure

[2] The Application called for a Case Management Discussion (CMD) by conference call on 2 November 2023. The Application was continued to a Hearing by teleconference for evidence to be heard. The Respondent was directed to set out a response to the Application and appear or be represented at the Hearing. Subsequently, the Respondent

submitted representations and explained that they had only not done so previously because the Application had been served on a now defunct office.

The Hearing

[3] The Application then called for a Hearing by conference call at 10 am on 6 March 2024. The Applicant was personally present. The Respondent was represented by their Mr Urquhart.

[4] Neither party had any preliminary matters to raise. Mr Lipari had received the representations lodged by the Respondent. Both parties confirmed that they were content for the Tribunal to begin hearing evidence and make a final decision. Mr Lipari had hoped to have another witness present, but she was now unavailable. He explicitly confirmed that despite this, he was content to proceed on the basis of him being his only witness. The Tribunal heard evidence from both parties. Each party had the right to cross-examine the other. After hearing evidence, each party was also given the option of making closing submissions. The Tribunal also specifically referred each party to the relevant standards of the Code and invited them to address why the evidence heard should result in their desired finding.

Findings in fact

[5] Having heard from parties, the Tribunal made the following findings in fact.

- I. *The Applicant entered into a tenancy agreement dated 22 April 2022 whereby he and another tenant let the Property from a private landlord named Joseph Murphy;*
- II. *The Respondent was later instructed to act as the relevant Letting Agent within the meaning of the Act;*
- III. *On 6 June 2023, the Applicant reported to the Respondent they were no longer able to access hot water within the Property;*
- IV. *On 7 June 2023, a contractor attended on the instruction of the Respondent to diagnose the problem. They provided a temporary repair;*
- V. *On 8 June 2023, The Respondent advised the Applicant that a temporary repair was in place and a full repair or replacement hot water cylinder would be organised;*
- VI. *On 9 June 2023, on the instruction of the Respondent, a maintenance coordinator contacted the Applicant to discuss alternative washing facilities;*

- VII. *The maintenance coordinator advised the Applicant that the landlord had given instructions to proceed with a full replacement of the faulty cylinder part and the Respondent was now awaiting being put in funds by the landlord;*
- VIII. *On 14 June 2023, the Respondent's contractor confirmed with the Applicant that the funds had been received and that the cylinder had been ordered. The contractor also confirmed with the Applicant that they had provisionally booked in execution of the works on 20 June 2023;*
- IX. *On 20 June 2023, the Applicant and the other tenant were not at home to provide access to the contractor;*
- X. *Efforts were made to rearrange by the Respondent's contractor and ultimately the works were finally carried out and completed on 26 June 2024;*

Decision

[6] Having made the above findings in fact, the Tribunal decides as follows.

Standard 90. *"Repairs must be dealt with promptly and appropriately having regard to their nature and urgency and in line with your written procedures".*

[7] This standard has not been breached. The Respondent in fact dealt with the issue diligently and in an impressive manner.

Standard 91. *"You must inform the tenant of the action you intend to take on the repair and its likely timescale".*

[8] This standard has not been breached. The Respondent provided the Applicant with regular updates and kept them informed.

Standard 93. *"If there is any delay in carrying out the repair and maintenance work, you must inform the landlords, tenants or both as appropriate about this along with the reason for it as soon as possible".*

[9] This standard has not been breached. The Respondent provided the Applicant with regular updates and kept them informed.

[10] The Tribunal decided that there was no merit in the Application. The Tribunal understood that it must have been frustrating for the Applicant to be without hot water, but there was nothing to suggest that the Respondent had not acted entirely appropriately in their efforts to resolve matters.

[11] 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.

[12] 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.

Andrew McLaughlin

Legal Member

6 March 2024