



**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. The Repairing Standard Enforcement Order.

The Tribunal issued a Repairing Standard Enforcement Order (‘RSEO’) in respect of the Property dated 30th September 2022 which required the Landlords to:-

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.

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 Four. 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.

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

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 ordered that the works specified in the RSEO were to be carried out and completed by 30th November 2022.

2. Background

2.1 Re Inspection (1)

The Tribunal attended at the Property at 10.00 am on 13th January 2023. The parties were present at the reinspection. A hearing was held following the inspection at the Glasgow Tribunal Centre.

2.2 Decision dated 16th January 2023

The Tribunal issued a decision dated 16th January 2023, which determined that:

(i) The following items of the RSEO had 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.

(ii) The date for completion of the outstanding items was amended to 30th April 2023. The outstanding items were:

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.

2.3 Re Inspection (2)

The Tribunal attended at the Property at 10.00 am on 9th June 2023. The second reinspection report was thereafter issued to the parties.

2.4 Hearing and Decision following inspection on 9th June 2023

This case called for a Hearing 11th September 2023 at the Glasgow Tribunal Centre. Following the hearing the Tribunal issued a decision which acknowledged that the parties accepted the terms of the second reinspection report and amended the date for completion of the outstanding to 1st October 2023.

The outstanding items were:

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 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.

2.5 Re Inspection (3)

The Tribunal attended at the Property at 10.00 am on 9th October 2023. The reinspection report is attached as a Schedule to this Decision.

2.6 Hearing on 18th March 2024

This case called for a Hearing at 10.00 on 18th March 2024 at the Glasgow Tribunal Centre. The Tenant did not attend and was not represented. The Landlords were present.

The Tenant had been sent an email advising her of the hearing on 29th December 2023. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the hearing.

2.6.1 In connection with the outstanding the repairs the landlords advised the Tribunal as follows:

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 valid EICR certificate dated 14th September 2023 has been exhibited to the Tribunal.

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 Landlords had provided the Tribunal with a Gas Safety Certificate (1813040) by Michael Sturrock, Harkness Gas and Plumbing dated 13th March 2023 (Gas Safety Register Number 603992) in the following terms:

- Outcome of gas installation pipework visual inspection: Pass
- Outcome of gas supply pipework visual inspection: Pass
- Is the Emergency Control Valve access satisfactory: Pass
- Outcome of Gas tightness test: Pass
- Is the Protective Equipotential bonding satisfactory: Fail

The Landlords advised the Tribunal that the electrician had attended to the bonding in September 2023 and the EICR report that has been produced, dated 14th September 2023 confirms that the Earthing and Bonding arrangements in the Property are satisfactory. A new gas safety certificate will be instructed shortly. The Landlords have not previously instructed a fresh gas safety certificate due to difficulties obtaining access. They provided the Tribunal with a photograph of the gas meter which showed that the bonding had been completed. They also advised that an eviction order had been granted at a hearing held on 15th March 2024.

The Landlords reminded the Tribunal that they had previously provided the Tribunal with a letter from Riece Harkness of Riece Harkness Gas and Plumbing Service (Gas Safe Register 603992) headed Landlord Gas Safety Record 1813040 which states that he is happy to remove the bonding advisory from the gas safety record.

They explained that the letter had not been signed as Riece Harkness had had difficulties with the Tenant and did not want to get further involved.

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 Landlords advised that they were contacted by the police on 8th February 2024 as the Property had been broken into and the Tenant was away. Mr Ewing went to the Property with the police and made the Property secure. He also repaired the carpet and fitted the required transition strip. Photographs had been produced to the Tribunal.

2.6.2 Decision

The Tribunal determined that:

A. The following items of the RSEO had been satisfactorily completed, as confirmed by the decision of the Tribunal dated 16th January 2023:

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.

B. The following items have been satisfactorily completed, as had been confirmed in the reinspection report dated 9th June 2023 and accepted by the parties at the hearing on 11th September 2023:

Part of Item One.

Several of the recessed light fittings, specifically at the first floor bedroom/study, remain unsecured and suspended by wire from the ceilings.

Item Five.

The carbon monoxide alarm currently located within the “boiler cupboard” requires to be re-sited in accordance with current Scottish government statutory guidance.

Item Nine.

The refitting or repair of the door to the shower cubicle in the “Jack & Jill” bathroom remains outstanding

Item Ten. The repair of the “French doors” leading from the kitchen to the garden area, remains outstanding.

C The following items have been satisfactorily completed, as confirmed during the reinspection of 9th October 2023 and subsequent hearing on 18th March 2024:

Item 2

No current Electrical Installation Condition Report for the Property has been exhibited to the Tribunal which has no category 2 or 3 items of repair

Item 3

No fully compliant Gas Safety Certificate prepared by a suitably qualified gas engineer has been exhibited to the Tribunal

Item 8

The relaying and/or refitting of those areas of carpet at the stairs and landing/transition areas at the upper floors, remains outstanding

D The requirements of the RSEO have been satisfactorily completed and they also determined to certify that the terms of the RSEO have been completed.

2.6.3 The decision of the Tribunal was unanimous.

3. Appeals

A landlord, tenant or third party applicant 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.

Signed.....J.Taylor.....Date 19th March 2024
Chairperson