



Statement of Decision under section 24 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/21/1507

Re: Property at Frasers House, Lighthouse Cottages, Rattray, Peterhead, AB42 3HA (“the Property”)

Parties:

Ms Eleanor Whittow, Suite 70249, Box 26965, Glasgow, G1 9BW; (“the Landlord”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Angus Anderson (Ordinary Member)

Decision

The Tribunal determined that the Landlord had complied with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) insofar as reasonably possible and issued a Certificate of Completion.

Background

- 1 By application to the Tribunal, Mr John Dellow and Ms Kirsty Griffiths (“the former Tenants”) applied to the Tribunal for a determination as to whether Mr Robert Keeble and Ms Valerie Keeble (“the former Landlords”) had failed to comply with the duties imposed by Section 14(1)(b) of the Act. The property was subsequently sold by the former Landlord to the Landlord Eleanor Whittow. The former Tenants also vacated the property. Due to the nature of the issues highlighted in the application the Tribunal determined to continue with the application.
- 2 On 23 June 2022, following an inspection of the property, the Tribunal made a Repairing Standard Enforcement Order requiring the Landlord to carry out the following works:-
 - (a) Instruct a SELECT, NICEIC or NAPIT accredited electrician to inspect the property, with particular regard to the items listed in the accompanying decision and thereafter to provide a current Electrical Installation Condition Report (EICR) in respect of the property, containing no category C1 or C2 items of disrepair;

- (b) Repair or replace the back door pertaining to the kitchen to ensure it is wind, watertight and in proper working order;
- (c) Carry out such works to the ducting pertaining to the ventilation fan from the back bedroom to the right hand side of the house to ensure it expels humid air externally;
- (d) Install suitable covering to the external drainage installation servicing the property to ensure these are not exposed.

The Tribunal gave the Landlord a period of three months to complete the works.

3 The Tribunal subsequently carried out a reinspection of the property on 4 October 2022. Following said reinspection the Tribunal determined to vary the Repairing Standard Enforcement Order to give the Landlord further time to carry out the works. It was noted that one of the outstanding items was the arrangement for covers to be fixed to the external drainage installations and the Landlord had instructed a contractor in this regard.

4 A further reinspection took place on 17 February 2023. The weather was dry and windy, with heavy rain showers in the preceding 24 hours. The Tribunal was given access by two contractors and noted the following:-

- (a) On 14th June, 2022, the Landlord had submitted an Electrical Installation Condition Report ("EICR") prepared by Macleod Electrical Services Ltd, which described the installation as "Satisfactory" and did not identify any C1 or C2 defects. The EICR was dated 25th May, 2022, five days before the initial Tribunal inspection which identified areas of concern described in the subsequent Decision. Included with the email of 14th June was an invoice from Macleod Electrical Services Ltd detailing rectification work corresponding with the Tribunal's Decision. The loose electrical cabling in the utility area and exposed conductors in the garage during the previous re-inspection had now been rectified. However, it was noted during this re-inspection a broken light switch and hole in the back plate of another, in the utility area. The external door to the meter was also missing.
- (b) The back door pertaining to the kitchen was found to be binding in its frame and was very difficult to open and close. The door appeared to be badly swollen and the joints had opened up. Externally, the draught excluder strip was poorly fitted and not in contact with the face of the door. The split in the lower panel had been sealed with caulk. Additionally, dampness was apparent to the lower section of internal linings to the side of the door.
- (c) Within the roof space the three extract fan ducts had been connected to the three vents through the roof covering.

(d) The covers to the external drainage installation had been replaced with concrete covers.

- 5 A Hearing subsequently took place on 12 April 2023 by teleconference. The Landlord was in attendance. The Tribunal discussed the findings of the reinspection with the Landlord. She confirmed that she had submitted photographs evidencing that the electrical issues highlighted in the reinspection report had been addressed. With regard to the back door she advised that the issue had arisen because the property was currently unoccupied and unheated. She had arranged to have the door shaved and the lock sorted. She could provide videos of the door being opened and closed with ease. She herself had not been able to travel to see it. She noted that the binding of the door was a temporary issue which had not arisen at previous inspections. She confirmed that her contractor had planed the whole top right hand corner of the door so it now closed very smoothly. The lock had been repaired, not replaced, but it now operated correctly. The Tribunal agreed that it would be helpful to have sight of the videos, as well as any additional evidence of the work that had been carried out by the contractor. The Tribunal therefore adjourned the hearing to consider further evidence from the Landlord prior to reaching a decision.
- 6 The Landlord subsequently submitted video evidence of the door which was viewed by the Tribunal. The video evidence showed the door to be opening and closing with minimal effort.

Reasons for Decision

- 7 The Tribunal was satisfied that it had sufficient information upon which to reach a decision on the application and concluded that it would not be proportionate to undertake a further re-inspection for the one minor item outstanding, namely the back door, based on the video evidence provided by the Landlord which was sufficient to evidence that the door was now functioning correctly. Whilst it may have been prudent for the Landlord to replace the back door, the Tribunal was satisfied that it was now in a reasonable state of repair. The Tribunal was further satisfied based on the photo evidence produced by the Landlord, that the areas of concern in respect of the electrics had been remedied.
- 8 On that basis the Tribunal concluded that the Landlord had complied with her duties in terms of the Repairing Standard and determined to issue a certificate of completion.

Right of Appeal

In terms of Section 46 of the Tribunal (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 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 determined.

R O'Hare

Legal Member/Chair

Date

10 May 2023

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

Certificate of Completion under section 60 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/21/1507

Re: Subjects at Frasers House, Lighthouse Cottages, Rattray, Peterhead, AB42 3HA (“the Property”), registered until Title Number ABN19151

Parties:

Ms Eleanor Whittow, Suite 70249, Box 26965, Glasgow, G1 9BW (“the Landlord”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Angus Anderson (Ordinary Member)

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’) certifies that the work required by the **Repairing Standard Enforcement Order** relative to the house made on 23 June 2022 has been completed insofar as reasonably possible. Accordingly the said **Repairing Standard Enforcement Order** relative to the property has been discharged.

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

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are subscribed at Glasgow on 10 May 2023 by Ruth O'Hare, Chairperson of the Tribunal, in the presence of # c/o Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT

R O'Hare

Signed

Chairperson

Date 10 May 2023

Signed **C Tracey**

Witness *Christopher Tracey*

Date *11 May 2023*