

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Sections 25(1) and 60

The Parties:

Sharelle Raybould and John Rafferty (“the Tenants”)

Piotr Jablonski and Beata Jablonska, 10 Fir Grove, New Stevenston, Motherwell ML1 4DP (“the Landlord”)

22 Hillfoot Road, Gartlea, Airdrie ML6 9PN (“the House”)

Tribunal Reference number: FTS/HPC/RP/21/1590

Tribunal Members:

John McHugh, Chairperson

Mr Andrew, Ordinary (Surveyor) Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the work required by the Repairing Standard Enforcement Order dated 18 November 2021 (“the RSEO”) had been completed and resolved to issue a Certificate of Completion of Work.

The decision of the Tribunal Members was unanimous.

Background

The RSEO required the Landlord to complete the following work within 80 days of service of the RSEO:

1 To carry out works so that the interior of the House is rendered reasonably free of penetrating dampness.

2 To carry out repairs such that the kitchen walls and cupboards are complete, free of gaps or holes, cleanable and reasonably capable of preventing the entry of pests.

3 To repair or replace the kitchen units such that all cupboards and drawers are capable of being easily opened and closed and with all handles in reasonable condition.

4 to fill any gaps around the boiler into which items are reasonably at risk of falling.

5 to ensure that the wall panelling in the kitchen is adequately secured without the use of tape, making adequate provision for access to the central heating components and controls.

Reasons for the Decision

On 1 March 2022, the Ordinary (Surveyor) Member carried out a re-inspection of the House.

At the re-inspection the following was noted:

1 The Landlord has arranged specialist damp proofing companies to attend and provide quotations for work. This includes the proposal by Curol Ltd. for the Landlord to consider fitting a Nuaire Flatmaster condensation unit from Platinum Chemicals. The Landlord is proposing, instead, to install Passyfier Core type vents (also available from Platinum) within the walls of the property. These also remove moist air (condensation) from a building. The tenants do not want this type of passive extraction system to be fitted as they have the reputation of bringing cold air into the property and of reducing the thermal efficiency of the building. The specialist damp proofing companies reports that have been forwarded by the landlord to the Tribunal (from Curol Ltd. and Russell Preservation) indicated that they could not find evidence of rising damp but admitted that there may be a problem with cavity wall insulation. Damp meter readings taken on 1st March found excessive damp areas in the walls in the front middle bedroom (bunk bedroom) below the window up to the wall with the adjacent front (bay window) bedroom; in the rear (double) bedroom below the window and to each side of it up to window sill height; in the front (bay window) bedroom (which is no longer used as a bedroom by the tenants) on the gable wall, below the bay windows and between the bay window and the adjoining bedroom and in the front lobby from @500mm above floor level down to the floor. The excess damp was found within the plaster using a protimeter. Further investigation is necessary to determine the cause of this excessive dampness which is likely to include penetrating damp crossing between the leaves of the exterior cavity wall either due to a failure of the cavity wall insulation or poor initial construction and improper use of wall ties. The property remains affected by penetrating damp and the method which the landlord proposes to use to deal with the damp conditions can only deal with condensation issues. Although this is a cause of dampness within the property it is not the only one and it is unlikely to reduce the levels of excessive moisture in the walls of the property. The RSEO has not been complied with

2. The Landlord has repaired the backboard panel beneath the boiler so as to ensure a seal of the backboard against the kitchen worktop. A gap remains below the boiler and above the backboard so as to provide ventilation and access to the boiler. The landlord has made a hinged section of backboard to the side of the boiler which permits access to the pipework hidden behind it. The hinge has been made using gaffer tape. This is not a proper permanent method of creating an inspection area and a proper set of hinges or straight piano hinge should be used. The landlord has not installed a back to the sink cupboard or filled the cut away hole in the sink cupboard base. The cupboard is therefore not properly cleanable and can admit the entry of pests. The RSEO has not been complied with.

3. The Landlord has fitted a new handle to the kitchen larder cupboard and all of the door handles work properly. Although they do not match, this does satisfy the requirements of the RSEO

4. As at 2 above. The Landlord has carried out the necessary work to comply with the RSEO The gap below the boiler has been eliminated by the backboard fitted onto the worktop.

5. As at 2 above. Gaffer tape has been used to make a hinge for the side panel inspection beside the boiler The Landlord has used tape where he was instructed not to. The landlord has failed to comply with the RSEO.

On 11 October 2022 a further re-inspection was carried out. The detailed findings are noted in the Surveyor Member's Re-inspection Report.

At the re-inspection the following was noted:

The House was empty. The Tenants have moved out.

Passyfier Core type vents have been installed within the external walls.

Damp meter readings were found to be within acceptable levels throughout the House.

The issues in the kitchen had been addressed with a new hinged access to the boiler controls and all gaps having been filled.

On the basis of the evidence available, the Tribunal decides that the works have been completed and a section 60 Certificate will be issued.

Right of Appeal

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

Signed


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J. McHugh

Date

.....13 October 2022.....

Chairperson