

Housing and Property Chamber First-tier Tribunal for Scotland



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

Decision: Housing (Scotland) Act 2006 (“the 2006 Act”), Section 60

Chamber Ref: FTS/HPC/RP/21/1253

Title no: MID30048

6 Pinebank, Livingston EH54 6EU (“the property”)

The Parties:-

**Damian Mrotek, 6 Pinebank, Livingston EH54 6EU and Justyna Hamberg,
formerly residing at 6 Pinebank, Livingston EH54 6EU (“the Tenants”)**

**Newport Asset Management Ltd, Firth Road, Houston Industrial Estate,
Livingston EH54 5DJ (“the Landlord”)**

Tribunal Members:

Graham Harding - Legal Member

Donald Wooley - Ordinary Member

DECISION

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’), having taken account of the findings of the re-inspections on 17 March and 2 August 2022, the documentation received from the Respondent, the evidence obtained at the hearing on 25 November 2021 together with the reasons for the Decision of the Tribunal and the Repairing Standard Enforcement Order served on the Landlord and dated 1 December 2021 determined that the Respondent has complied with the said Repairing Standard Enforcement Order.
2. The Tribunal issued a Certificate of Completion in terms of Section 60 of the Housing (Scotland) Act 2006.
3. The Decision of the Tribunal was unanimous.

Findings in Fact

4. The Landlord has:-

1. Instructed a suitably qualified "gas safe" registered central heating contractor to inspect the central heating and hot water system, including the boiler, radiators and all associated plumbing who has confirmed it is all in reasonable working order.
2. Instructed a suitably qualified contractor to identify the source of the damp affecting the walls and flooring and completed all necessary repairs required to ensure that the property is in a wind and watertight condition. All areas affected as a result of the repairs have been replastered and redecorated.
3. The missing handle at the kitchen window ensuring has been replaced and is in proper working order.
4. The kitchen units have been replaced.
5. The waste disposal pipe below the kitchen sink unit has been replaced and is in proper working order.
6. The fridge has been removed and a replacement fridge supplied by a new tenant.
7. The house meets the repairing standard as specified in Section 13 of the 2006 Act.

Reasons for Decision

8. Reference is made to the full terms of (i) the Decision of the Tribunal and (ii) the Repairing Standard Enforcement Order ("RSEO") both served on the Landlord and dated 1 December 2021.
9. Following the re-inspection of the property on 17 March 2022 by the Tribunal it appeared that many of the works specified in the RSEO had been completed. There was however an issue with regards to the operation of the gas boiler and also water ponding in the fridge and doors missing from two of the kitchen cabinets. The Landlord undertook to provide the Tribunal with a report from a "gas safe" registered engineer. The report was provided by the Landlord in an email dated 21 June 2022. The Tribunal proceeded to arrange a re-inspection of the property to ascertain if the remaining outstanding issues had been addressed. The Tribunal was concerned to note that as the Tenants' tenancy had been terminated and they were no longer occupying the property the Landlord had re-let the property in breach of Section 28(5) of the Housing (Scotland) Act 2006. The Tribunal therefore issued a Minute of Continuation dated 20 July 2022.
10. A re-inspection took place on 2 August 2022 and the Tribunal was able to confirm that all remaining issues had been satisfactorily addressed by the Landlord. A re-inspection report was sent to the Landlord by email dated 4

August 2022. The Landlord by email dated 11 August commented on the re-inspection report. Whilst the Tribunal has noted the Landlord's comments it does not intend to amend its report as that is confined to the factual issues relating to compliance with the RSEO. Having determined that the Respondent has addressed all of the matters in the RSEO it decided to issue a Certificate of Completion in terms of Section 60 of the 2006 Act on that basis.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only 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.

Legal Member and Chairperson

Date 9 September 2022