

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”)

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

Chamber Ref: FTS/HPC/RP/18/1897

25 Cuiken Avenue, Penicuik, EH26 0DR, more particularly described as 0.013 hectare with house 25 Cuiken Avenue, Penicuik, thereon, referred to in Feu Disposition by Midlothian District Council to Charles Caron Gray and Elizabeth Sinclair Gray dated 12 May 1983 and recorded in the General Register of Sasines on 14 October 1983 (from II Series SS 172647 Vol. 973 Folio.184) (“The House”)

The Parties:-

**Ms Rushna Begum, 41 Roseburn Drive, Edinburgh, EH12 5NR
 (“the Landlord”)**

represented by

**Mr Ally Rashid, APM Lettings, 198 Morrison Street, Edinburgh, EH3 8EB
 (“the Landlord’s Representative”)**

**Susanne Tanner Q.C., Legal Member and Chairperson
 Mike Links, 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-inspection on 16 April, 17 June and 23 September 2019 and the written submissions and evidence submitted by and on behalf of the Landlord, determined that the Landlord has complied with the

Repairing Standard Enforcement Order dated 16 February 2019, albeit not within the time period specified in the order.

2. The tribunal issued a Certificate of Completion in terms of Section 60 of the Housing Scotland Act 2006 (hereinafter "the 2006 Act").
3. The decision of the tribunal was unanimous.

STATEMENT OF REASONS

4. Findings-in-fact

- 4.1. The skylight and/or the roof of the extension of the House is wind and watertight.
- 4.2. A new fridge freezer has been provided which is in a reasonable state of repair and in proper working order.
- 4.3. The broken fridge freezer has been uplifted from the back garden of the House.
- 4.4. The boundary wall in the front garden, including the pillar and coping and the dwarf wall at the side of the front path, including the coping, have been repaired.
- 4.5. The carpet to the front bedroom has been replaced and grippers have been fitted to secure the carpet to the floor; and the door bar to the threshold between the front bedroom and the upstairs hall carpets has been re-instated.
- 4.6. The carpet on the hall stairs has been repaired to ensure there are no tacks protruding from the carpet and no means by which tacks can work their way out of the carpet as a result of normal daily use.
- 4.7. The bathroom tiled flooring has been replaced with similar tiled flooring and grouted.
- 4.8. The bath plumbing has been repaired and is in a reasonable state of repair and in proper working order.
- 4.9. The installation for extraction from the kitchen has been repaired in order to ensure that it is compliant with the regulations for such installations and the building warrant for the House, has a sufficient extraction rate per second and is properly ducted externally.

- 4.10. The missing or damaged skirtings downstairs in the House have been repaired or replaced and the decoration has been made good.
- 4.11. The loose handle on the en-suite shower room door has been repaired and the lock remains in proper working order.
- 4.12. Items 1-9 in the document headed "Appendix" which was produced at the hearing have been completed; and Gordon Strachan has certified that the building works have been satisfactorily completed.
- 4.13. A fresh EICR and PAT certificate dated 19 March 2019 have been produced from a competent electrician, registered with NICEIC.

5. Findings in law

- 5.1. The House meets the repairing standard as specified in Section 13 of the 2006 Act.

6. Reasons

6.1. On 16 February 2019 the tribunal issue a Decision in terms of Section 24(1) of the 2006 Act, determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the 2006 Act and made a Repairing Standard Enforcement Order ("RSEO") in terms of Section 24(2) of the 2006 Act, requiring the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard in Section 13 of the 2006 Act and that any damage caused by the carrying out of any work in terms of the RSEO is made good. In particular the tribunal required the Landlord:

1. *To make the skylight and/or the roof of the extension of the House wind and watertight; and to produce documentary evidence to the tribunal regarding the work which has been carried out.*
2. *To provide a new fridge freezer which is in a reasonable state of repair and in proper working order.*
3. *To uplift the fridge freezer which is not in a reasonable state of repair and in proper working order from the back garden of the House.*
4. *To repair or replace the boundary wall in the front garden, including the pillar and coping; and to repair or replace the dwarf wall at the side of the front path, including the coping.*

5. *To replace the carpet to the front bedroom, including fitting grippers to secure the carpet to the floor; and to re-instate the door bar to the threshold between the front bedroom and the upstairs hall carpets.*
6. *To repair or replace the carpet on the hall stairs to ensure there are no tacks protruding from the carpet and no means by which tacks can work their way out of the carpet as a result of normal daily use.*
7. *To replace the bathroom tiled flooring with similar tiled flooring; and to grout the tiles; to ensure that the bathroom floor is in a reasonable state of repair.*
8. *To obtain a written report from a competent plumber in relation to the bath drainage system to consider the provision of a suitable outflow from the bath, whether it is being used as a bath or shower; to provide a copy of the report to the tribunal; and to undertake any recommendations made in the report to ensure that the installation is in a reasonable state of repair and in proper working order.*
9. *To repair or replace the installation for extraction from the kitchen in order to ensure that it is compliant with the regulations for such installations and the building warrant for the House, has a sufficient extraction rate per second and is properly ducted externally; and to produce written confirmation to the tribunal of the works that have been carried out and any tests to confirm the extraction rate.*
10. *To repair or replace any missing or damaged skirtings downstairs in the House; and to make good any decoration.*
11. *To repair or replace the loose handle on the en-suite shower room door, ensuring that the lock remains in proper working order.*
12. *To complete items 1-9 in the document headed "Appendix" which was produced at the hearing; and produce a written report from Gordon Strachan or another architect which certifies that the building works have been satisfactorily completed and / or produce a Completion Certificate from Midlothian Council, if available.*
13. *To produce a fresh EICR and PAT certificate from a competent electrician, registered with NICEIC, SELECT or NAPITT, which includes: all appliances provided by the Landlord under the tenancy, including the new fridge/freezer referred to in order number 2, above; all electrical circuits; all sockets (including the socket in the lounge which was faulty, as referred to in the Decision); and*

the kitchen extraction system, once repaired or replaced, as referred to in order number 9, above.

- 6.2. The tribunal ordered that the works specified in this Order must be carried out and completed within 30 days from the date of service of the RSEO.
- 6.3. On 16 April 2019 the tribunal carried out a re-inspection of the House. The works in order numbers 2 to 13 had been undertaken prior to the re-inspection on the 16th April 2019. The only works outstanding were those in the first order, *“to make the skylight and/or the roof of the extension of the House wind and watertight; and to produce documentary evidence to the tribunal regarding the work which has been carried out.”*
- 6.4. A reinspection report was issued to parties. The tribunal thereafter issued Directions to parties requiring them to do specified things.
- 6.5. On 17 June 2019 the ordinary member attended to carry out a further reinspection of the House. The ordinary member was unable to gain access to the House. A reinspection report dated 17 June 2019 was intimated to all parties. The works in the first order remained outstanding.
- 6.6. The Landlord and Landlord’s Representative submitted written representations in response to the reinspection Report of 17 June 2019.
- 6.7. On 11 July 2019 the Tenant sent an email to the tribunal responding to the Landlord’s and Landlord’s Representative’s written representations in relation to the reinspection report. Within the email the Tenant stated that she had now permanently left the House.
- 6.8. Both parties submitted further information relative to the end of the tenancy. The tribunal was satisfied for the purposes of the Application that the tenancy has ended. Accordingly, under Schedule 2, Paragraph 7(1) of the Housing (Scotland) Act 2006 (“the 2006 Act”), the Tenant was treated as having withdrawn the Application.
- 6.9. On 3 September 2019, the tribunal decided to continue to determine the application in terms of Schedule 2, Paragraph 7 of the 2006 Act.
- 6.10. The Tenant was removed as a party to the proceedings.
- 6.11. A further reinspection of the House took place on 23 September 2019. The skylight was checked by the ordinary member during the re-inspection and was found to be watertight. Whilst no written confirmation was presented to the

tribunal, the tribunal is satisfied on the basis of the re-inspection that the window now meets the repairing standard.

6.12. A Re-Inspection Report dated 23 September was issued to the Landlord and her Representative.

6.13. On 11 October 2019 the Landlord sent a response to the Re-inspection Report stating that she agreed with the findings and stating that she did not wish to attend a hearing.

6.14. The tribunal is satisfied, having considered the evidence and written representations submitted by the Landlord, and the findings on re-inspection on 16 April, 17 June and 23 September 2019, that the works in the RSEO have been completed.

6.15. The tribunal therefore decided to issue a Certificate of Completion in terms of Section 60 of the 2006 Act.

7. Right of Appeal

7.1. 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.

7.2. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

S Tanner

Signed Susanne L M Tanner, Queen's Counsel
Legal Member and Chairperson of the tribunal

Date 25 November 2019