



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

Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 25 of the Housing (Scotland) Act 2006 (“the Act”)

Re: 38 Tiree Court, Irvine, North Ayrshire, KA11 (“the House”)

Title number: AYR 45712

Chamber Ref: FTS/HPC/RP/23/3360

Mr Martin Grant, residing at the House (“the Tenant”)

Mr John Scott, 8B Park Terrace, Ayr, KA7 2AN (“the Landlord”)

Tribunal Members:

Nicola Weir (Legal Member) and Donald Wooley (Ordinary Member)

DECISION

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), determined that, with reference to the Repairing Standard Enforcement Order (“RSEO”) dated 29 January 2024, further time should be allowed for the work required in terms of the RSEO to be carried out and that the RSEO should accordingly be varied by extending the time for completion of the work until 10 May 2024.

Background

1. By application received on 22 September 2023, the Tenant applied to the Tribunal in terms of Section 22 of the 2006 Act claiming breach of the Repairing Standard by the Landlord in respect of various repair issues affecting the House. The application was submitted on behalf of the Tenant by Mrs Andrea Gibson, Advice and Information Officer, of CHAP who is representing the Tenant in these proceedings. On 9 October 2023, the application was accepted and notified to the Landlord and parties were notified of the date, times and

arrangements for an Inspection and Hearing to take place. Detailed written representations were lodged by the Landlord on 20 November 2023, attaching some supporting documentation.

2. The Tribunal Members inspected the House on 11 January 2024 at 10am. Both the Tenant and Landlord were in attendance. A Hearing took place thereafter by telephone conference call at 2.30pm. Both the Tenant and Landlord were again in attendance as was the Tenant's representative, Ms Andrea Gibson, of CHAP.
3. Following the Hearing, the Tribunal issued a Repairing Standard Enforcement Order ("RSEO") dated 29 January 2024 in the following terms:-

"Whereas in terms of their decision dated 29 January 2024, The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act') and in particular that the Landlord has failed to ensure that the House meets the repairing standard with reference to the following provisions of Section 13 of the Act, as amended:-

- (a) the house is wind and watertight and in all other respects reasonably fit for human habitation;*
- (c) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;*
- (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and*

the Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular, the Tribunal requires the Landlord to:-

- 1) Investigate and repair, renew or replace the defective door entry "buzzer" system, to ensure that it is in a reasonable state of repair and in proper working order.*
- 2) Investigate and repair or replace the defective hot water tap (sink) in the bathroom ensuring that that it is in a reasonable state of repair and in proper working order.*

3) Instruct a suitably qualified damp specialist to undertake a detailed survey of the bedroom and surrounding area, to identify the cause and full extent of the dampness and any necessary remedial action. Any reports, quotations or receipts in respect of the repairs should, when available, be submitted to the Tribunal for consideration. Thereafter all necessary repairs to remedy the dampness and any associated defects should be completed, and any resultant decoration made good to ensure that the House is in a reasonable state of repair, wind and watertight and in all other respects reasonably fit for human habitation.

4) Repair the residual damage between the mutual hall/bathroom wall and skirting board in the entrance hall and make good the decoration in that area to ensure that it is in a reasonable condition and state of repair.

*The Tribunal order that the works specified in this Order must be carried out and completed within a period of **8 weeks** from the date of issue of this Order.”*

4. Following the issue of the RSEO, the Landlord has provided several updates regarding the required repairs to the Tribunal by emails dated 31 January, 21 February and 27 February 2024. The Landlord has advised that the door entry buzzer and decoration in the hall have been completed. The Tenant's representative, by email dated 29 February 2024, have confirmed that both these issues have been rectified to the Tenant's satisfaction. The Landlord advised that a contractor had been arranged and had been instructed to replace the bathroom taps. However, the Tenant's representative had subsequently advised that, when the contractor attended, it was found that the taps could not be removed and that a replacement sink (with taps) was required instead. The Landlord had instructed a damp specialist who had recommended certain interior works be carried out. However, the Landlord advised that he had also been in contact with North Ayrshire Council, as property factor, who had attended regarding the exterior works required. They had recommended that the exterior works are completed first and that they may also carry out some of the interior works required in respect of the dampness. Accordingly, the Landlord is proposing to hold off instructing his damp specialist until North Ayrshire Council have attended to the repairs they are proposing. The Council appears to have been in direct contact with the Tenant, as has the Landlord, and the Tenant is accordingly aware of the position.

5. In his latest communication, the Landlord had mentioned that he did not anticipate that the works to be carried out by the Council would be completed in the timescale allowed by the RSEO. The Tribunal deems this to be a request by the Landlord for an extension of the period specified in the RSEO for the repairs to be carried out, in terms of Section 25(3) of the 2006 Act.

Decision

6. The Tribunal determined that, in the circumstances, further time should be allowed for the work required in terms of the RSEO to be carried out and that the RSEO should accordingly be varied by extending the time for completion of the work for a further approximately 6 weeks, until 10 May 2024.

7. The decision of the Tribunal is unanimous.

Reasons for decision

1. The Tribunal considered the issues of disrepair identified in the RSEO and the extent to which the Landlord has already complied within a fairly short timescale. The Tribunal was aware that the exterior works required were likely to be outwith the control of the Landlord, being a common repair issue, but were encouraged that the Landlord has been in communication with the local authority regarding the matter and that the local authority have already inspected and indicated that the work required will be undertaken. The Tribunal was also pleased to note that the Landlord has already instructed a damp specialist who has made recommendations regarding interior works required and that the Tenant is being kept informed of matters as they progress. The Tribunal considered that satisfactory progress was being made with the repairs required and therefore considered it reasonable to extend the time for compliance with the RSEO for a further 6 weeks, until 10 May 2024 to allow the repairs to be completed.
2. Accordingly, in terms of Section 25 of the Act, the Tribunal decided to vary the RSEO in that respect and proceeded to issue a Variation.

Right of Appeal

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.

In terms of Section 63 of the Act, 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.

N Weir

Signed.....
Nicola Weir, Legal Member of the Tribunal

Date: 26 March 2024