

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION OF THE HOUSING AND PROPERTY CHAMBER OF THE FIRST-TIER TRIBUNAL FOR SCOTLAND UNDER SECTION 60(5) OF THE HOUSING (SCOTLAND) ACT 2006

Chamber Ref: FTS/HPC/RP/23/0653

Title No: STG64408

37 Tيرة Place, Hallglen, Falkirk FK1 2PP
("the Property")

The Parties:-

Ms Rehana Afreen and Mr Youssouf Keita, 37 Tيرة Place, Hallglen,
Falkirk FK1 2PP
("the Tenants")

Ms Shehnaz Ijaz, 4 Achray Drive, Falkirk FK1 5UN
("the Landlord")

The Tribunal

R Mill (Legal Member)
A McFarlane (Surveyor Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") unanimously determined that the Landlord has complied with the Repairing Standard Enforcement Order in respect of the Property made on 6 June 2023 and that a Certificate of Completion should be issued in terms of Section 60(5) of the Housing (Scotland) Act 2006.

Background

1. The Tribunal made a Repairing Standard Enforcement Order (RSEO) dated 6 June 2023 which required the Landlord:-

1. To restore the kitchen fan above the cooker to a reasonable state of repair and in proper working order. If this cannot be achieved, it should be replaced.
2. To have an investigation of areas where damp or damaged plaster is noted to ceilings in the first floor apartments carried out, and work carried out to render wind and watertight as required. Thereafter damaged areas of plasterwork should be dried out, patched, repaired and redecorated.
3. To have a suitably qualified electrician test the electric circuits serving socket outlets to establish their condition and highlight any action required to ensure they are free from defects. Confirmation of such works to be provided to the tribunal. To replace the missing retaining ring from the bulb holder to the light in the lower hallway.
4. To have the gutters and downpipes to the front of the property examined by a suitably qualified tradesman to ensure that they are running clear, collecting rainwater and conducting it to the underground drainage system. To provide confirmation that the system is operating correctly to the Tribunal.
5. To replace the cracked sealed double glazed unit in the kitchen. To overall other windows to ensure that all seals are in place and functioning properly to eliminate draughts, along with ironmongery being operational. To provide controllable trickle ventilation. The Tribunal would observe that it may be found more practicable to replace the windows.
6. To adjust the air brick which has a gas pipe running through it to ensure that there are no holes larger than the ventilation holes forming part of the brick.
7. To instruct a pest control contractor to prepare a further report for submission to the Tribunal for any further instruction which may be required.

The tribunal ordered that the work specified in the Order must be carried out and completed within a period of 8 weeks from the service of this Notice.

2. Reference is made to the Tribunal's earlier Failure to Comply Decision dated 31 January 2024. This found that only one of the components of the RSEO had not been complied with, namely item 5. This required the windows in the property to be wind and watertight and to provide

controllable trickle ventilation. The landlord had accepted that in order to achieve this the windows required to be replaced and a double glazing company had been identified for the purposes of supplying and fitting the replacement glazing units. However, despite every fair opportunity being given for the work to be undertaken it had not been undertaken within a reasonable timeframe.

3. By way of email dated 6 March 2024, the landlord emailed evidence of the windows having been replaced. The scope of the work was the replacement of seven UPVC casement windows with vents. A series of photographs evidencing the replacement windows in the property were produced with associated paperwork.
4. The tribunal provided this evidence from the landlord to the tenants on 11 March 2024. Clarification was sought as to whether or not it was accepted that the RSEO had now been fully complied with, taking into account that all other aspects of the RSEO were found to have been complied with in terms of the tribunal's detailed written decision dated 31 January 2024.
5. On 21 March 2024 the tribunal received confirmation from the tenants that the windows were now complete to their satisfaction.
6. On the basis of the further documentary evidence, confirmed by the tenant, the tribunal was satisfied that the RSEO has now been fully complied with. Accordingly, the tribunal resolved to issue a Completion Certificate and, further, resolved to revoke the Rent Relief Order dated 31 January 2024.
7. In the tenants' email of 21 March 2024 a complaint is made regarding ongoing repair issues at the property. Some of the issues raised are similar in nature to the previous complaints which led to the RSEO being made. The tribunal notes that further repair issues are stated to have arisen which may constitute grounds for a further fresh application being made to the tribunal. However, for all the reasons which have already been set out in detail (both in this decision and the failure to comply decision of 31 January 2024) the tribunal is satisfied that the RSEO which was made in June 2023 has been fully complied with and the requirements which were set out have been attended to by the landlord. The tribunal would, of course, encourage the landlord to investigate any further repair complaints and attend to those as necessary without delay.

Right of Appeal

8. 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.

9. 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 type written on this and the preceding page(s) are executed by R Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the Tribunal at Edinburgh on 2 April 2024 before this witness:-

R Mill

C McNaught