

Housing and Property Chamber First-tier Tribunal for Scotland



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

Certificate of completion of work: Housing (Scotland) Act 2006 Section 60

Chamber Ref: prhp/rp/16/0150

Flat 0/2, 555, Crookston Road, Glasgow G53 7AA ("the Property")

Title Number :GLA98233

The Parties:-

Mr John McNicol and Miss Aimee McGowan ("the Tenants"), residing at Flat 0/2, 555, Crookston Road, Glasgow G53 7AA

and

Mr John-Harry Jackson, residing at 4 Chaucer Avenue, East Grinstead ("the Landlord") per his agents, AbiConn Limited trading as Probroom Properties, 79 St Georges Road, Glasgow, G3 6JA. ("the Landlord's Agent")

Committee Members

Karen Moore (Chairperson)

Andrew Taylor (Surveyor Member)

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal') hereby certifies that the work required by the **Repairing Standard Enforcement Order** relative to the Property served on 7 July 2016 2016 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

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.

In witness whereof these presents type are executed by Karen Moore, solicitor, Glasgow chairperson of the tribunal at Glasgow on 23 December 2016 before this witness, Chloe Moore, of 12, The Walk, Cardiff, CF24 3AF.

C Moore
Whitness

K Moore
Chairperson

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 Section 26 (1)

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Title Number : GLA98233

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and

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Committee Members

Karen Moore (Chairperson)

Andrew Taylor (Surveyor Member)

This Decision should be read in conjunction with:-

- i) Decision of the prhp committee in respect of the Property dated 7 July 2016;
- ii) Repairing Standard Enforcement Order in respect of the Property dated 7 July 2016 and
- iii) The Surveyor Member's Re-Inspection Report dated 3 September 2016, a copy of which is annexed hereto.

Decision

The First-tier tribunal for Scotland (Housing and Property Chamber) ("the tribunal"), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order ("the RSEO") imposed by it on 7 July 2016 and taking

account of the evidence led by or on behalf of both the Landlord and the Tenants at the hearing, determined that the Landlord has not failed to comply with the RSEO.

Background

1. By application received 14 April 2016, (“the Application”), the Tenants applied to the Private Rented Housing Panel for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a) of the Act.
2. The President of the Private Rented Housing Panel, having considered the Application and having determined to continue the Application in terms of Schedule 2, Paragraph 7 (2) of the Act referred the Application to a Private Rented Housing Committee (“the committee”) and fixed an Inspection and Hearing for 29 June 2016 at 11.00 a.m. and 2.00 p.m., respectively.
3. Following the Inspection and Hearing, the committee determined that the Landlord had failed to comply with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a) of the Act and imposed the following RSEO: -

“The Landlord must on or before 12 August 2016:-

- 1. Instruct a specialist survey in respect of damp noted in the concrete floor slab within the hall cupboards and produce a written report on the cause and work required to eradicate that damp and to instruct and carry out those recommended works.*
 - 2. Carry out such works as are necessary to insulate and sheet the internal walls of the hall cupboards and provide and install vents in the cupboard doors.*
 - 3. Replace the waterproof liner to the planter detail externally adjacent the close front entrance.*
 - 4. Carry out all ancillary works and decoration associated with the above works”*
-

4. The Surveyor Member of the committee re-inspected the Property on 2 September 2016 and found that the works required by the RSEO had been carried out. The Surveyor Member's Re-Inspection Report dated 3 September was intimated to the Parties for their comment. The Landlord accepted the terms of the Re-Inspection Report and requested that the works be certified as complete. The Tenants submitted that they did not agree with the outcome of the Re-Inspection Report and requested that a further Hearing be fixed.

5. Accordingly, the committee fixed a further Re-Inspection and Hearing for 9 November 2016 at 11.00 a.m. and 2.15 p.m., respectively. The Tenants requested that the Inspection and Hearing be adjourned due to a family emergency and, the Landlord having no objection, the committee adjourned the Re-Inspection and Hearing to 14 December 2016 at 10.00 a.m. and 11.30 a.m. respectively.

Further Re-Inspection

6. The tribunal (formerly the committee) and Landlord's Agents, Mr David Brooker and Ms Emma Park, attended at the Property on 14 December at 10.00 a.m. However, as the Tenants were not present, no access could be gained. Ms Park telephoned Ms McGowan of the Tenants at the time of the further Re-Inspection and was advised that the Tenants were not present as they were attending an emergency hospital visit with their child. The tribunal concluded that in the circumstances the further Re-Inspection should not proceed and that any matters could be dealt with at the Hearing.

Hearing

7. Mr David Brooker and Ms Emma Park, attended the Hearing at Wellington House, Wellington Street, Glasgow at 11.30 a.m. The Tenants did not attend the Hearing. However, prior to the Hearing, arrangements were made for Ms McGowan to take part in the Hearing by telephone and the Hearing proceeded on this basis.

8. Ms McGowan explained that the Tenants had been unable to allow access for the Re-Inspection due to a medical emergency with their infant daughter. The tribunal accepted this explanation.

Tenants' submissions

9. The tribunal chairperson advised that as the further Re-inspection and Hearing had been arranged at the Tenants' request, following their non-acceptance of the Re-inspection Report, Ms McGowan should address the tribunal on the parts of the RSEO which, in the Tenants' opinion, had not been complied with. Ms McGowan accepted that parts 1, 2 and 4 had been carried out by the Landlord but stated that part 3, the waterproofing of the external planter, had not been done.

10. Ms McGowan advised the tribunal that the larger bedroom in the Property had extensive mould spores. However, when pressed on this by the tribunal by reference to the tribunal's earlier findings and the Report obtained by the Landlord in

compliance with part 1 of the RSEO, accepted that the spores were not readily visible.

11. Ms McGowan accepted that the works required by part 2 of the RSEO, the insulation, sheeting and ventilation of the hall cupboards, had been carried out but maintained that dampness remained in the cupboard causing items stored there to be affected by mould.

12. Ms McGowan advised the tribunal that, except for the external planter, the Landlord had carried out the works required by the RSEO but had not done so successfully.

13. Ms McGowan maintained that the Property was damp. She advised the tribunal that contractors who had visited the Property including the contractor who had carried out the Report had stated to her that the construction of the Property is such that it is susceptible to lifestyle condensation and so is not habitable.

Landlord's Submissions

14. Mr Brooker, on behalf of the Landlord, submitted to the tribunal that the Landlord had complied fully with the terms of the RSEO.

Issue for the tribunal.

15. The issue for the tribunal is, has the landlord failed to comply with the terms of the RSEO.

Findings of the tribunal

16. Although the tribunal was unable to inspect the Property on 14 December 2106, the tribunal was of the opinion that the re-inspection carried out by the Surveyor Member on 2nd September 2016 would suffice and that no further re-inspection was required.

17. The tribunal considered each part of the RSEO in turn.

18. In respect of part 1, namely "*Instruct a specialist survey in respect of damp noted in the concrete floor slab within the hall cupboards and produce a written report on the cause and work required to eradicate that damp and to instruct and carry out those recommended works.*", the tribunal was satisfied that the Landlord had obtained and submitted to them a report and had carried out works recommended by the report which satisfied this part of the RSEO. The tribunal noted that the Landlord had carried out works additional to those recommended.

19. In respect of part 2, namely "*Carry out such works as are necessary to insulate and sheet the internal walls of the hall cupboards and provide and install vents in the cupboard doors.*", the tribunal was satisfied that the Landlord had carried out the works required by this part of the RSEO. The tribunal noted Ms McGowan's comments in respect of mould on items stored in the cupboard. In their professional opinion, the tribunal found it likely that, the cupboards having been insulated and

vented, any mould on stored items would be because of over filling of the cupboard causing poor air circulation.

20. In respect of part 3, namely *Replace the waterproof liner to the planter detail externally adjacent the close front entrance* “ the tribunal was satisfied that the Landlord had carried out works required by this part of the RSEO.

21. In respect of part 4, namely *“Carry out all ancillary works and decoration associated with the above works.”*, the tribunal was satisfied that the Landlord had carried out works required by this part of the RSEO.

22. The tribunal noted Ms McGowan’s comments in respect of the mould in the larger bedroom. However, no dampness had been detected in this room at the initial inspection on 29 June 2016 and so no works relating to this room had been ordered by the RSEO. Accordingly, the tribunal was unable to conclude that any emergence of dampness in this room amounted to a failure to comply with the RSEO. It is open to the Tenants to make an application to the First -tier Tribunal in respect of this new matter.

23. The tribunal also noted Ms McGowan’s assertions that the Property, as a whole, is damp and uninhabitable. The tribunal found, however, that, other than the flooring of the hall cupboards, no evidence of penetrating or rising damp throughout the Property was found at the two inspections and none is mentioned in the specialist report obtained by the Landlord. The tribunal, in its professional view, concluded that the mould growth in the Property is likely to be caused by life style condensation and noted that the Landlord has taken steps to assist the prevention of this by installing a ventilation system and door and window vents. In any event, the terms of the RSEO does not extend beyond the dampness in the hall cupboards.

Decision and reason for decision

23. The tribunal found that the Landlord has carried out the works required by the RSEO and, for that reason, has not failed to comply with the terms of the RSEO.

Issue of Certificate of Completion

24. Accordingly, the tribunal proceeded to issue a certificate in terms of Section 60 of the Act.

Right of Appeal

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 the Section 60 certificate 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.

Signed K Moore

Date 21 Dec 2016

Chairperson



Glasgow 21 Dec 2016

This is the Re-Inspection Report
referred to in the foregoing
Decision

Fara Moore
Chairperson.

PRHP Re-Inspection Report



Property – Flat 0/2, 555 Crookston Road, Glasgow, G53 7AA

Reference- PRHP/RP/16/0150

Surveyor – Andrew Taylor, MRICS

Previous Inspections – Full Committee – 11.00am, 29th June 2016

Re-inspection – 10.30am, 2nd September 2016

Weather – Cloudy, drizzle.

In Attendance – Mr John McNicol, Miss Aimee McGowan, Tenants, Ms Emma Park, Probroom Properties, Letting Agent.

Purpose of Re-inspection - To establish if the work required under the Repairs Standard Enforcement Order had been completed.

RSEO – In terms of the RSEO issued on 5th July 2016 the Landlord was required to carry out such work as was necessary to ensure that the house meets the repairing standard and in particular the following specific areas: -

1. Instruct a specialist survey in respect of damp noted in the concrete floor slab within the hall within the hall cupboards and produce a written report on the cause and work required to eradicate that damp and to instruct and carry out those recommended works
2. Carry out such works as are necessary to insulate and sheet the internal walls of the hall cupboards and provide and install vents in the cupboard doors.
3. Replace the waterproof liner to the planter detail externally adjacent the close front entrance
4. Carry out all ancillary works and decoration associated with the above works

Works In RSEO Carried Out

1. A satisfactory specialist survey in respect of damp noted in the concrete floor slab within the hall within the hall cupboards has been commissioned and supplied indicating that the concrete floor slab within the cupboard areas is not damp.
2. Insulation and sheeting has been provided to the internal walls of the hall cupboards and vents have been provided in the cupboard doors.
3. The waterproof liner to the planter detail externally adjacent the close front entrance has been replaced.
4. All ancillary works and decoration associated with the above works has been adequately completed.

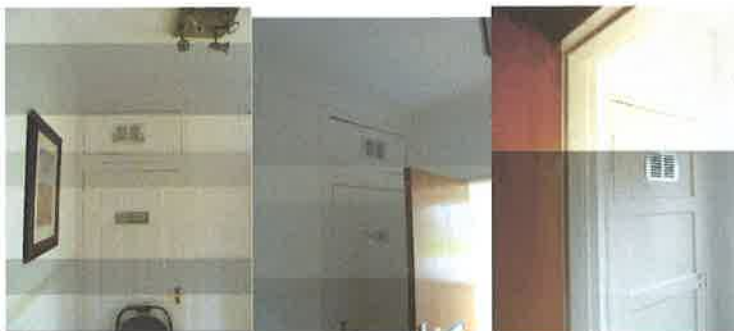
Works In RSEO Outstanding

Nil

Observations

In addition to the works detailed in the RSEO the landlord has fitted closeable trickle ventilators to all windows and has supplied and fitted fire detection equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 – Fire, sub-section 2.11 Communication.

Photographs



Cupboard Door Vents - September 2016



Cupboard interiors showing insulated lining - September 2016



Trickle Vents at Windows - September 2016



Fire Detection Equipment September 2016

Andrew Taylor MRICS

Surveyor Member, PRHP

3rd September 2016