

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

Chamber Ref: Reference number: FTS/HPC/RP/21/2651

Property: 7 Brannock Place, Newarthill, Motherwell, ML1 5DX ("The property")

Title Number: Lan184860

Parties:

Christina Robinson, residing at 7 Brannock Place, Newarthill, Motherwell, ML1 5DX ("the Applicant" and "the Tenant")

And

Stuart and Janet Cook, residing at 10 Kilbreck Lane, Motherwell ML1 5HL ("the Respondent" and the Landlord)

Tribunal Members:

Paul Doyle (Legal Member)

Carol Jones (Ordinary Member)

Unanimous Decision of the Tribunal

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal') declines to certify that the work required by the Repairing Standard Enforcement Order relative to the Property made on 4 April 2022 has been completed. Accordingly, the said Repairing Standard Enforcement Order remains in place.

Background

(1) On 4 April 2022 the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal") issued a decision requiring the Landlord to comply with the repairing standard enforcement order ("RSEO") made by the tribunal

on 4 April 2022. The tribunal re-inspected the property on 11th August 2022 and 11th January 2023.

(2) The Repairing Standard Enforcement Order (“RSEO”) required the Landlord to

(i) Install interlinked smoke and heat detectors within the property, ensuring that they are fully functional and located and powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.

(ii) Install carbon monoxide detectors in the property to comply with all current regulations and guidance.

(iii) Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire electrical installation in the property and all electrical appliances and equipment supplied by the landlord and carry out all necessary remedial works to rectify any identified C1 and C2 categorised areas. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with an unqualified EICR and PAT prepared by a suitably qualified SELECT, NICEIC or NAPIT registered contractor.

(iv) Instruct a suitably qualified Gas Safe registered engineer to repair or replace the gas central heating boiler, radiators and piping. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with a satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.

(v) Install a new shower unit in the bathroom.

(vi) Inspect and then repair or replace the three-piece sanitary suite in the bathroom.

(vii) Repair or replace the flooring in the living room with a floor surface of comparable standard.

(viii) Repair or replace the canopy above the front door to the property.

All within 28 days of service of the RSEO

First Re-inspection

(3) On 11 August 2022, tribunal members noted that less than half of the works required by the RSEO had been completed. Tribunal members found that:

(i) The landlord has installed new ceiling mounted smoke detectors in the Living Room, Hall and Landing and a new ceiling mounted heat detector in the Kitchen. All detectors are interlinked, in full working order and comply with current statutory guidance.

(ii) The landlord has installed a new wall mounted CO detector in the Kitchen where the gas boiler is situated. This detector is in working order and complies with current statutory guidance.

(iii) The landlord has installed a new gas central heating system with a new boiler and radiators throughout the property.

(4) On 5 September 2022 the tribunal issued a decision noting that the landlord had not complied with the Repairing Standard Enforcement Order (RSEO) and made a Rent Relief Order.

Second Re-inspection

(5) On 11 January 2023, tribunal members reinspected the property and found the following works required by the RSEO had been completed.

(a) The landlord has now installed a brand new shower in the bathroom and the tenant confirmed this is in proper working order.

(b) The landlord has now carried out repairs to the toilet and the tenant confirmed it is in proper working order.

(c) The landlord has now carried out repairs to the timber flooring in the living room. All boards are now back in place and are secure although it was noted that the quality of workmanship is not of a high standard and an exposed screw head was evident on one of the boards.

(d) The landlord has replaced the severely rotten timber brace to the bracket supporting the external canopy over the front door. The existing timber upright and head remain in situ and some signs of rot are still evident.

(6) Tribunal members furthermore found that:

(a) The landlord has now provided the Tribunal with an Electrical Installation Condition Report dated 2 September 2022 by AA Electrical Services, 5 Calderpark Road, Glasgow however it is incomplete and has not been prepared by a suitably qualified SELECT, NICEIC or NAPIT

registered contractor (the landlord has confirmed that there are no portable appliances in the property and has therefore not supplied evidence of a Portable Appliance Test).

(b) The landlord has now provided the Tribunal with a Gas Safety Record dated 7 September 2022 prepared by a Gas Safe registered engineer, John Smith of Excel Gas Services, 26 Cadzow Street, Hamilton however this record states that the cooker hob is not safe to use. The attached Gas Warning Notice prepared by the same engineer on the same date details the defect as “Gas flame spilling” and states the action taken as “Hob capped”. It was noted at this inspection that there is a safety warning label on the hob dated 7 September 2022 which means the tenant has been unable to use this part of the appliance for over four months.

(7) This means that the landlord still needs to:

(i) Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire electrical installation in the property and all electrical appliances and equipment supplied by the landlord and carry out all necessary remedial works to rectify any identified C1 and C2 categorised areas. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with an unqualified EICR prepared by a suitably qualified SELECT, NICEIC or NAPIT registered contractor.

(ii) Repair or replace the gas cooker hob, and then

(ii) Instruct a suitably qualified Gas Safe registered engineer to provide the First-tier Tribunal for Scotland (HPC) with a satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.

DECISION

(8) The only conclusion that the Tribunal can come to is that eight months after the RSEO was served on the landlord, the works have still not been completed. The tribunal therefore refuse to issue a certificate of completion of works in terms of s. 60 of the Housing (Scotland) Act 2006.

Right of Appeal

(9) 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.

(10) 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.

Signed *Paul Doyle*
Legal Member

20 February 2023