

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 24(1)

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)

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 ("RSEO") dated 4 April 2022 determined that the Landlord has failed to comply with the RSEO.

Tribunal Members:

Paul Doyle (Legal Member)
Carol Jones (Ordinary Member)

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 4 April 2022. On 11th August 2022 tribunal members re-inspected the property.

(2) The 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

(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.

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

4. Tribunal members also found that

(i) The landlord has not provided the Tribunal with any evidence of an inspection of the electrical installation or testing of any electrical appliances/equipment supplied by him and he has not provided an unqualified Electrical Installation Condition Report or Portable Appliance Test prepared by a registered electrician.

(ii) The tenant has been provided with a copy of the commissioning documentation for the new gas boiler system however the landlord has not provided 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.

(iii) The landlord has not replaced the shower unit in the bathroom, the existing defective shower remains in the same condition as at the initial tribunal inspection on 25 March 2022.

(iv) The landlord has not provided any evidence of an inspection of the bathroom suite and no repairs have been carried out to rectify the issues identified at the initial tribunal inspection on 25 March 2022. The tenant informed the tribunal that the toilet continues to not flush properly and there is a suspected leak under the wash hand basin.

(v) The landlord has not repaired or replaced the flooring in the Living Room, the tenant informed the tribunal that someone came out to take measurements in April but has not returned to carry out the work. The flooring remains in the same condition as at the initial tribunal inspection on 25 March 2022.

(vi) The landlord has not repaired or replaced the external canopy over the front door, it is in the same condition as at the initial tribunal inspection on 25 March 2022.

5. The Ordinary Members report was circulated to parties. The landlord made no further representations. The tenant asked for a rent relief order.

6. The tribunal can only come to the conclusion that the Landlord has chosen to ignore the terms of the repairing standard enforcement order dated 4 April 2022 including some essential health and safety requirements. For that reason, the tribunal decides to impose a rent relief order. As the landlord has chosen not to carry out most of the repairs required, and the quality of the tenant's peaceful enjoyment of the property is adversely affected by the Landlord's decision, the tribunal decided that significant

restriction of rental is merited. The tribunal therefore granted a Rent Relief Order for 50% of the monthly rental.

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 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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page are executed by Paul Doyle, solicitor, chairperson of the tribunal at Edinburgh on 5 September 2022 before Emma Doyle.