

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 25(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RT/21/1900

31 Dunholm Terrace, Dundee, DD2 4NU being the property described in the Feu Disposition by City of Dundee District Council in favour of Patricia Anderson registered GRS (Angus) 27th April 1984 (“the Property”)

The Parties:-

Dundee City Council, Private Sector Services Unit, 5 City Square, Dundee, DD1 3BA (‘The Third Party’)

Patricia Anderson residing at Alamein Cottage, Montreathmont, Forfar, DD8 2TU (‘The Landlord’)

Nicola McCready residing at 31 Dunholm Terrace, Dundee, DD2 4NU (‘the Tenant’)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) comprising: Jacqui Taylor (Legal Member) and Andrew Murray (Ordinary Member).

Background

A. The Tribunal issued a Repairing Standard Enforcement Order dated 15th March 2022 (‘RSEO’) in respect of the Property which required the Landlord to:-

1. *Carry out such repairs as are necessary to render the electrical installation in a reasonable state of repair and exhibit a valid and compliant EICR Certificate.*
2. *Repair the central heating system to render in in proper working order including repairing the leak from the hall radiator, replacing the thermostatic control head missing from the hall radiator, repairing the defective radiator in the bedroom and repairing the leak to the front bedroom radiator.*
3. *Repair or replace the electrical sockets in the living room to render them in proper working order.*
4. *Repair the kitchen door leading into the hall to render it in proper working order.*
5. *Repair or replace the kitchen tiles to render them in a reasonable state of repair.*

6. *Repair or replace the downlights in the kitchen to render them in a reasonable state of repair and proper working order.*
7. *Replace the fitted extension lead in the kitchen with a permanent wired socket.*
8. *Repair the kitchen ceiling to remove the water stain mark.*
9. *Repair or replace the upper hall electrical socket to render it in proper working order.*
10. *Repair or replace the on/off switch to the shower works to render it in proper working order.*
11. *RegROUT the tiles in the shower area to render them in a reasonable state of repair.*
12. *Repair or replace the sealant around the shower basin to render it in a reasonable state of repair.*
13. *Replace the damaged tiles in the bathroom.*
14. *Replace the electrical socket located beside the door of the rear bedroom to render it in proper working order.*
15. *Repair the front bedroom radiator to render it in proper working order.*
16. *Repair the steps from the patio to ground level to render them safe.*
17. *Repair the external lights above the kitchen door to render them in proper working order.*
18. *Repair the Sky satellite to render it in proper working order.*
19. *Repair the external paths at-the side and front of the house to render them safe.*
20. *Repair the boundary fence between the neighbouring property to render it secure and in proper working order.*
21. *Repair the steps leading from the front gate to the house to render them safe.*

B. The Tribunal ordered that the works specified in the RSEO must be carried out and completed by 30th June 2022.

C. The Ordinary Member and the Legal Member attended the Property on 11th October 2022 and carried out an inspection to determine if the required works had been completed. Mr Cuthill, the Third Party representative, and the Tenant attended the inspection. The Landlord did not attend and was not represented. The inspection report is annexed and executed as relative hereto.

D. This case called for a conference call Hearing at 10am on 22nd December 2022.

Byron Young of Dundee City Council attended the Hearing and represented the Third Party.

The Landlord was represented by Norman Law, property manager of Shiels, Solicitors and Estate Agents.

Mrs Taylor referred to the inspection report which detailed the following outstanding repairs:

1. *Carry out such repairs as are necessary to render the electrical installation in a reasonable state of repair and exhibit a valid and compliant EICR Certificate.*
2. *Repair the central heating system to render in in proper working order including repairing the leak from the hall radiator, replacing the thermostatic control head missing from the hall radiator, repairing the defective radiator in the bedroom and repairing the leak to the front bedroom radiator.*
4. *Repair the kitchen door leading into the hall to render it in proper working order.*
5. *Repair or replace the kitchen tiles to render them in a reasonable state of repair.*
7. *Replace the fitted extension lead in the kitchen with a permanent wired socket.*
9. *Repair or replace the upper hall electrical socket to render it in proper working order.*
11. *RegROUT the tiles in the shower area to render them in a reasonable state of repair.*
12. *Repair or replace the sealant around the shower basin to render it in a reasonable state of repair.*
14. *Replace the electrical socket located beside the door of the rear bedroom to render it in proper working order.*
15. *Repair the front bedroom radiator to render it in proper working order.*

(These items of the RSEO are hereinafter referred to as 'The Outstanding Repairs').

Mr Young advised that as far as he was aware these repairs are still outstanding.

Mr Law explained that his client had advised that the works had been completed. He accepted that he had not been provided with any evidence that the repairs had been completed and he acknowledged that the updated EICR report has not been produced to the Tribunal.

E. Decision and Reasons

(i) The Tribunal determine that the following items of the RSEO have been satisfactorily completed, as detailed in the reinspection report:

3. *Repair or replace the electrical sockets in the living room to render them in proper working order.*
6. *Repair or replace the downlights in the kitchen to render them in a*

reasonable state of repair and proper working order.

8. Repair the kitchen ceiling to remove the water stain mark.

10. Repair or replace the on/off switch to the shower works to render it in proper working order.

13. Replace the damaged tiles in the bathroom.

16. Repair the steps from the patio to ground level to render them

17. Repair the external lights above the kitchen door to render them in proper working order.

18. Repair the Sky satellite to render it in proper working order

19. Repair the external paths at-the side and front of the house to render them safe.

20. Repair the boundary fence between the neighbouring property to render it secure and in proper working order.

21. Repair the steps leading from the front gate to the house to render them safe.

(ii) Considering that no evidence has been produced to the Tribunal that the Outstanding Repairs have been completed and that Mr Law did not have any details of any works having been carried out to the Property, the Tribunal find that on the balance of probabilities the Outstanding Repairs have not been completed.

Therefore, the Tribunal determine that the Landlord has failed to fully comply with the RSEO as the Outstanding Repairs have not been completed in terms of section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the Property is situated.

F. As the parties' representatives who attended the hearing did not have detailed instructions on whether a Rent Relief Order was appropriate the Tribunal did not proceed to consider if a Rent Relief Order should be made.

G. The decision of the Tribunal was unanimous.

H. Appeals

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.

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

.....J.Taylor.....Date 22nd December 2022
Chairperson