

Housing and Property Chamber First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Section 60 (5) (b)

Chamber Ref: FTS/HPC/RP/23/1551

21 Redstone Avenue, Kilwinning, Ayrshire, KA13 7JQ, Registered in the Land Register of Scotland under Title Number AYR53905 (“the Property”)

The Parties:-

Ms Caitlyn Greenwood, 21 Redstone Avenue, Kilwinning, Ayrshire, KA13 7JQ (“the Tenant” and “the Applicant”)

Mr Keith Marwick and Ms Isabel Marwick, 67 Dalry Road, Kilwinning, KA13 7HN (“the Landlord” and “the Respondent”)

Tribunal Members:

Martin McAllister, Solicitor (Legal Member) and Donald Wooley, Chartered Surveyor (Ordinary Member) (“the tribunal”)

Decision

The tribunal determined that the repairing standard order dated 17 October 2023 has been complied with.

Background

1. By application dated 23 March 2023, the Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (the 2006 Act). The application is in terms of Section 22 (1) of the 2006 Act (“the 2006 Act.”)

2. The tribunal inspected the Property on 24 August 2023 and held a hearing on the same day. A decision was issued on 4 September 2023.
3. Subsequent to the Landlord submitting a report from Rowallen Specialist surveys dated 5 October 2023 the tribunal made a repairing standard order on 17 October 2023 in the following terms:

The Landlord is to resolve issues of dampness and condensation in the Property identified by the tribunal during its inspection on 24 August 2023, supported by the subsequent report by Rowallen Specialist Surveys dated 5 October 2023, by whatever means are appropriate and effective to ensure that the Property is reasonably fit for human habitation.

4. The Landlord had intimated to the Tribunal that the Tenant had left the Property and that the tenancy had come to an end. The Tenant is therefore no longer a party to the application.

Inspection

5. The tribunal inspected the Property on 5 April 2024. The Landlord was present and advised that the Property had been purchased by North Ayrshire Council a few weeks previously. Mr T. Henderson of North Ayrshire Council was present and facilitated access to the Property.
6. A re-inspection report prepared by the Ordinary Member is attached.

Decision

7. The tribunal determined that that the RSEO had been complied with and that it was appropriate to issue a certificate of compliance.

Reasons

8. The Landlord had carried out works to the Property to address the issues of dampness and mould. The tribunal relied on its findings from the inspection and the re-inspection report is referred to for its terms.

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.

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.

M McAllister

Martin J. McAllister,
Legal Member
7 April 2024