

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 57(2) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/PR/22/3949

Re: Property at 1 The Waterhouse, Old Largs Road, Greenock, PA16 9AR (“the Property”)

Parties:

Mr Alexander Ewing, 12 Caddlehill Street, Greenock, Inverclyde, PA16 8TU (“the Applicant”)

Ms Michelle Brandt, 1 The Water House, Old Largs Road, Greenock, PA16 9AR (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be dismissed for want of insistence

1. This is an application under rule 49 and section 57(2) of the Housing (Scotland) Act 2006 which seeks to order the respondent to cease obstructing the applicant from complying with a repairing standard enforcement order (RSEO).
2. An initial Case Management Discussion (‘CMD’) took place on 22 February 2023. There was no appearance by or on behalf of the applicant. Matters were continued to a further CMD on 30 May 2023. The applicant was then represented but his solicitor was unclear on whether the application was being insisted upon and thus the application was continued again to this further CMD which took place by teleconference at 2pm on 23 August 2023.

3. The applicant was present and represented by Mr James Lamb of Messrs Maitlands Solicitors. The respondent was represented by Miss Sophie Berry of Govan Law Centre.
4. The respondent previously applied to the tribunal for a determination of whether or not the applicant landlord had failed to comply with his duties imposed by section 14 of the 2006 Act, namely compliance with the 'repairing standard'. Following due process before the tribunal, a RSEO was made on 26 September 2022 under tribunal reference is FTS/HPC/RP/22/1503. This required a number of elements of work to be undertaken, including safety checks for the electrical and gas installations. The tribunal has reinspected the property on 9 June 2023 in the context of the RSEO compliance. The vast majority of the work has been undertaken but there are two minor outstanding issues. No failure to comply decision has been made by the tribunal.
5. There was still some dispute as to whether the respondent has been responsible for the failure of all work to be undertaken. It is clear that the applicant's own personal attendance at the property has not helped and has aggravated matters. The applicant's representative is to write to the respondent's representative and propose dates on which the outstanding work can be undertaken. There is no need for the applicant to be personally present to accompany the contractors. The work outstanding requires both an electrical and gas engineer and the applicant is not qualified to undertake any such work.
6. The applicant's representative invited the tribunal to dismiss the application on the basis that the application was no longer required.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

R Mill

23 August 2023

Legal Member/Chair

Date