



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Sections 26 (1) and 60 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/22/4314

Property: 74/9 Restalrig Road South, Edinburgh EH7 6LE (“the property/house”)

Title Number: MID140760

The Parties:-

Miss Arantzazu Mora Bellido, 74/9 Restalrig Road South, Edinburgh EH7 6EL (“the Tenant”)

Mr Trevor Wilson and Mrs Iryna Wilson, 147 Flat 3, Bukovacka, Zagreb 10000, Croatia (“the Landlord”)

Tribunal Members:

George Clark (Legal Member/Chairman) and Andrew Murray (Ordinary Member)

Decision

The First-tier Tribunal for Scotland Housing and Property Chamber, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 decided that the Landlords have complied with the Repairing Standard Enforcement Order made on 15 March 2023 and that a Certificate of Completion of Works should be issued.

Background

On 15 March 2023, The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“The Act”). The Tribunal made a Repairing Standard Enforcement Order (“the Order”), requiring the Landlord to carry out such work as is necessary to securely fix the tiles on the windowsill of the bathroom in the Property, to replace the plasterboard and tiling (to

match the original) behind the w.c. and to re-attach the front casing of the night storage heater in the living room.

The Tribunal ordered that the works required by the Order be carried out within six weeks of the date of service of the Order on the Landlord.

On 14 June 2023, the Tribunal varied the Order to give the Landlord until 31 July 2023 to complete the works.

On 18 July 2023, the Landlord's agents advised the Tribunal that the work required by the Order had been completed. This was confirmed by the Tenant by email on the following day.

The Tribunal reinspected the Property on the morning of 6 September 2023 and noted that the tiling in the bathroom referred to in the Order has been replaced by panelling. A new hard-wired Dimplex heater has been installed in the living room, but the Tenant advised that, although functional when it was put in, it does not appear to be working. She had consulted the operating manual, spoken with the manufacturers and watched on-line videos showing how to programme the heater, but without success. The Tribunal Members were also unable to make it work.

At a Hearing held by telephone conference call later on that morning, related to a separate application, it was agreed between the Tenant and the Landlord's representative, Mrs Karen Bruce of Campbell Stafford Lettings, that an electrical contractor would call at the Property on the morning of 13 September 2023 to inspect the heater.

As things stood at that point, the Tribunal was unable to decide that the Landlord has complied with the Order, as it was unclear whether the replacement heater was defective or whether it simply required to be reprogrammed, but, for the same reason, the Tribunal was reluctant to issue a Failure to Comply Decision. Accordingly, the Tribunal decided to delay making a Decision until the outcome of the electrical contractor's visit was known.

The electrical contractors inspected the heater and found it to be defective. As it is under warranty, they contacted the manufacturers, Dimplex, who arranged to call at the Property to inspect it.

On 3 October 2023, the Landlord's representatives provided the Tribunal with a Report from Glen Dimplex Heating and Ventilation, which confirmed that on 27 September 2023, they inspected the heater and carried out the necessary repair, which involved replacing the timer unit. They confirmed the fault had been rectified and that no follow-up was required.

Reasons for Decision

The Tribunal is satisfied that all the works required by the Order have now been satisfactorily completed. Accordingly, a Certificate of Completion of Works should be issued.

The decision of the Tribunal was unanimous.

Right of Appeal

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.

G Clark

Legal Member

4 October 2023