

# 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 26(1)**

**Chamber Ref: FTS/HPC/RP/22/1601**

**98 Maxwell Drive, Glasgow, G41 5PR (“the Property”)**

**Parties:**

**Sazia Amin, 98 Maxwell Drive, Glasgow, G41 5PR (“the former Tenant”)**

**Mohammed Saeed, Razia Saeed, 3 Rowan Gardens, Glasgow, G41 5BT  
 (“the Landlord”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

**Andrew Taylor (Ordinary Member)**

**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”) relative to the property dated 3 September 2022, determined that the Landlord has complied with the order and that a certificate of completion to that effect should be issued.**

**Background**

- 1. The former Tenant lodged an application in terms of Section 22 of the Act stating that the Landlord had failed to meet the repairing standard in relation to the property. The Tribunal inspected the property on 16 August 2022 at 10am. The Tenant provided access and Mr Saeed was present. Thereafter a hearing took place by telephone conference call at 2pm. The Tenant, her solicitor Ms Cochrane, and both Landlords participated.**

2. Following the hearing, the Tribunal determined that the property did not meet the repairing standard. A decision with statement of reasons was issued together with a Repairing Standard Enforcement Order (“RSEO”) dated 3 September 2022. In terms of the RSEO the Landlord was required to: -
- (a) Engage a suitably qualified window specialist to repair or replace all windows ensuring that they are wind and watertight, that the ironmongery is in proper working order and the windows are capable of opening and closing securely.
  - (b) Engage a suitably qualified dampness/condensation specialist to report on the evident areas affected by mould, condensation and dampness and undertake all works recommended, including any enhanced ventilation; make good all plaster walls, ceilings and any woodwork affected by damp and mould, including historic leaks; include all necessary redecoration. Provide the Tribunal and Tenant with copies of the report.
  - (c) Engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and report on the gas fired heating and hot water supply installation including boiler, pipework, all radiators, valves, programmers and thermostats.
  - (d) Follow the recommendations of that report to ensure that the entire system is free from leaks, safe and in proper working order. On completion of the works provide a valid CP12 Gas Safety Certificate to the Tribunal and Tenant.
  - (e) Engage a suitably qualified plumber to inspect the complete plumbing system for leaks including sanitary fittings, supply, drainage and overflow pipework, bath and sink sealants and rectify any faults.
  - (f) Engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the entire electrical installation of the property and including testing of the bathroom fan for safety and effectiveness. Follow the recommendations of that report to ensure that the entire system is safe and in proper working order. Provide a copy of the EICR and report to the Tribunal and Tenant.
  - (g) Ensure that the kitchen wall cabinets are safely and securely fixed to the wall.
  - (h) Supply and fit a Carbon Monoxide detector compliant with the Scottish Government Statutory Guidance for the provision of carbon monoxide alarms in private rented housing.

3. The order stipulated that the work was to be carried out and completed within 8 weeks of the order being issued.
4. Between 3 November 2022 and 24 February 2023, the Tribunal received a series of written submissions from both parties. The Landlord initially indicated that they had been unable to get work done due to contractors being unavailable, a family bereavement and the Tenant only providing access on two afternoons per week and Saturday mornings. The Tenant provided various updates stating that the guttering had been fixed in November 2022 and that the EICR, gas safety check and repair to the kitchen cupboards had been completed in December 2022/January 2023. The Landlord submitted the gas safety certificate and EICR on 2 January 2023. On 26 February 2023, the Landlord submitted a report from Russell Preservation dated 10 February 2023. This contained several findings and proposed remedial work.
5. The Tribunal re-inspected the property on 9 March 2023. Access was provided by the former Tenant. The Landlord Mrs Saeed was present.
6. The Tribunal noted that although a report from a dampness specialist had been obtained, the recommended remedial work had not been carried out. It was also noted that the kitchen units had been safely and securely fixed to the wall. The Landlord supplied a CP12 gas safety certificate and EICR. The remaining parts of the RSEO remained outstanding. A re-inspection report with photographs was issued to the parties on 14 March 2023
7. On 13 March 2023, the Tenant's representative lodged written submissions stating that the Tenant had not been unduly restrictive regarding access to the property, that she had been served with a Notice to leave, that the Landlords had stated that they would not carry out repairs while she remained in occupation and that the family had developed medical problems due to the condition of the property.
8. On 27 March 2023, the Landlords lodged a written submission which stated that they disagreed with the re-inspection report in relation to the windows. They said that the Tenant had been provided with keys for the windows and shown that they open and close properly. Window specialists had attended and stated that some windows needed re-sealed and some required new handles. The Landlord added that any outstanding work would be completed when the Tenant left on 17 April 2023. The Landlord lodged several documents with the submission which included an invoice for a gutter repair dated 9 November 2022 and an undated, handwritten note from an unidentified individual whose signature was illegible. The writer of the note indicated that they are a plumber and described plumbing work carried out in the kitchen and

bathroom. The Landlord also lodged an invoice from Russell Preservation which referred to ceiling plaster repair work, PIV installation works and the supply of mould chemicals. Photographs were also lodged which appeared to show that part of the ceiling in the kitchen and hall had been replastered, but not painted. The kitchen photograph showed that the mould in the kitchen was unchanged. The photographs also showed new flooring in the bathroom.

9. On 28 March 2023, the Tenant's representative lodged written submissions together with a statement from the tenant and a letter from Children 1<sup>st</sup>. The representative stated that the Tenant was planning to vacate the property on 17 April 2023 following service of a Notice to leave. She also stated that the Landlord had failed to comply with Parts 1 – 6 of the RSEO. A CO detector has been installed by the Landlord, but it was not clear whether it complies with current regulations and guidance. The main repair issue at the property, the mould affecting several rooms, had not been addressed. Russell Preservation attended and replastered the parts of the ceilings which had been damaged by leaks. They left mould chemicals which had been removed by the Landlord. The representative also submitted a copy of a text message from the Landlord which stated that, as the tenant had not provided a further date for work to be carried out, the remainder of the work would be carried out when she vacated the property.
10. The Tribunal determined that the Landlord had failed to comply with the RSEO and issued a Rent Relief Order on 5 April 2023. The Landlord sought permission to appeal the decision from the Tribunal. This was refused. The Landlord then sought permission to appeal the decision from the Upper Tribunal. This was also refused on 11 August 2023.
11. The Tenant vacated the property on or about 17 April 2023, and the tenancy ended on that date.
12. On 11 August 2023, the Landlord notified the Tribunal that the work was complete. A re-inspection was arranged for 7 November 2023 at 10am. The Tribunal attended and inspected the property. Access was provided by Mr Saeed.

### **The Re-inspection**

13. The Tribunal noted that the property is currently unfurnished and appears to be unoccupied. The windows were inspected. These appear to have been repaired or re-furbished. They were found to be wind and watertight and the ironmongery in proper working order. The windows were capable of opening and closing securely. Work has been carried

out to the areas affected by mould, condensation, and dampness within the property. Plaster repairs and redecoration to the affected areas has also been carried out. Faults and leaks affecting the plumbing system have been rectified. A carbon monoxide detector has been installed. The non-compliant cooker connection has been removed from the kitchen. The bathroom fan has been repaired and is in working order. A re-inspection report is attached to this decision.

### **Findings in Fact**

14. Windows at the property are wind and watertight and in proper working order.
15. The Landlord has repaired or refurbished the windows at the property.
16. The property is not affected by condensation and mould.
17. The Landlord has carried out the work to eradicate the mould.
18. Ceilings in the hall, kitchen and living room and walls in two bedrooms have been re-plastered and re-painted.
19. The Landlord has installed a carbon monoxide detector at the property which complies with Scottish Government Statutory Guidance.
20. The Landlord has provided a gas safety certificate and electrical installation condition report for the property.
21. The bathroom fan is in working order and the non-compliant cooker extension cable in the kitchen has been removed.
22. Leaks and plumbing faults have been rectified.

### **Reason for decision**

23. The Tribunal considered the condition of the property at the re-inspection and the submissions and documents lodged by the parties.

### **The Windows**

24. The windows at the property have been repaired or refurbished and are now in proper working order. The Tribunal is satisfied that the Landlord has complied with Part 1 of the RSEO.

### **Dampness/Condensation**

25. The Landlord previously provided the Tribunal with a specialist report which recommended remedial work at the property. The report was dated 10 February 2023. When the Tribunal re-inspected the property on 9 March 2023, it was evident that the remedial work had not been carried out. At the re-inspection on 7 November 2023, the Tribunal noted that all areas affected by mould and dampness/condensation have been treated, re-plastered and painted. The Tribunal is satisfied that the Landlord has complied with Part 2 of the RSEO.

### **Boiler, heating, and hot water**

26. The Landlord provided a gas safety certificate and letter from a plumber, although the latter was undated, and the signature was illegible. At re-inspection the Tribunal noted that the property is free from leaks and there was no evidence of any issues with the plumbing system. A carbon monoxide detector has also been installed next to the cupboard which houses the boiler. The Tribunal is satisfied that the Landlord has complied with Parts 3, 4, 5 and 8 of the RSEO.

### **Electrical Installation**

27. During both the initial inspection and first re-inspection, the Tribunal noted that an extension cable in the kitchen was providing power to the cooker. The Tenant also complained of concerns regarding the safety of a plug point in one of the bedrooms and concerns regarding the bathroom fan. Part 6 of the RSEO firstly required the Landlord to obtain a certified EICR. This has been provided and is in satisfactory terms. The Landlord has also removed the extension cable in the kitchen and the extractor fan in the bathroom is now in working order. The Tribunal is satisfied that the Landlord has complied with Part 6 of the RSEO.

### **Kitchen wall cabinets**

28. Prior to the first re-inspection the Tribunal was told that the kitchen units had been secured to the wall. During the re-inspection, the Tribunal noted this to be the case. The Tribunal is satisfied that the Landlord has complied with Part 7 of the RSEO.

### **Decision**

29. The Tribunal determined that the Landlord has complied with the RSEO and that a certificate of completion to this effect should be issued.

30. The Tribunal also determined that the RRO should be revoked.

31. The decision of the Tribunal is unanimous.

### **Right of Appeal.**

**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.**

In terms of Section 63 of the Act, 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.

# J Bonnar

23 November 2023