

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Section 27

Chamber Ref: FTS/HPC/RP/23/0930

1 The Square, Crarae, Furnace, Argyll, PA32 8YA, part of the estate of Cumladden, referred to in the Disposition to George Ilay Campbell of Succoth recorded in the Division of the General Register of Sasines for the County of Argyll on 19th January 1927 (“the Property”)

The Parties:-

Miss Anita Skea, 1 The Square, Crarae, Furnace, Argyll, PA32 8YA (“the Tenant” and “the Applicant”)

Ms Cecilia Macgregor, Crarae Lodge, Crarae, Furnace, Argyll, PA32 8YA as representative of Lady Margaret Minette Rohais (deceased), Crarae Cottage, Crarae, Furnace, Argyll, PA32 8YA (“the Landlord” and “the Respondent”)

Tribunal Members:

Mr Martin McAllister, Solicitor (Legal Member) and Nick Allan, Chartered Surveyor (Ordinary Member) (“the tribunal”)

Decision

The tribunal determined to make a repairing standard enforcement order in terms of Section 24 (2) of the Housing (Scotland) Act 2006.

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 Applicant and Respondent are parties to a private residential tenancy in respect of the Property. It is dated 24 October 2018. Lady Margaret Minette

Rohais died after commencement of the tenancy and the administration of her estate has not been concluded. Ms Cecilia Macgregor is the daughter of Lady Margaret Minette Rohais and is dealing with the Property until resolution of the executry.

3. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: that the house is not wind and watertight and in all other respects reasonably fit for human habitation, that the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order, that any fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order and that the Property does not meet the tolerable standard. Specifically, the application states that the Property has an inadequate source of heating, that there are issues with the carbon monoxide and smoke detectors and that there is mould and dampness throughout the Property, including the bedroom. The application states that the loft remains wet and unvented, that there are cracks on the building including the chimney, that fire bricks require replacement, that a window in the living room is cracked and that the front door is draughty.
4. On 15 May 2023, a Notice of Acceptance was issued by a legal member of the Tribunal acting under delegated powers of the Chamber President.
5. The members of the tribunal inspected the Property on 25 July 2023 and a Hearing was held on the same day.
6. The members of the tribunal issued a decision on 2 August 2023 which stated that final determination of the application would be deferred pending the Landlord submitting a report from a dampness and mould specialist. The decision indicated matters likely to be included in RSEO. The decision dated 2 August 2023 and the schedule of photographs which accompanied it should be read in conjunction with this decision.
7. The tribunal issued a direction under Rule 16 on 2 August 2023 which required the Landlord to produce a report from a dampness and mould specialist.
8. The Tenant intimated that the tenancy had been terminated on 24 August 2023.
9. On 2 September 2023 the tribunal issued a Minute of Continuation in terms of Schedule 2, Paragraph 7(3) of the Housing (Scotland) Act 2006.

Submission by Landlord

10. On 6 December 2023, the Landlord submitted a report from Gleeson Historic Building Consultants dated November 2023. The report provided an overview of the Property, its condition and comments thereon. It also referred to specific matters requiring attention.
11. The report stated that there was no "immediate signs of damp ingress or evidence from damp staining." The report commented on the need to properly ventilate the Property.

Determination

12. The tribunal determined that it should make a repairing standard enforcement order in the following terms.
 - 12.1 **produce to the Tribunal a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT, or other suitable accredited registered scheme, who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category. PAT testing documentation for any portable appliances supplied by the Landlord should also be produced which has been prepared by a similarly qualified and accredited electrician.**
 - 12.2 **Install a functional interconnected smoke detector in the living room which meets Scottish Government guidelines.**
 - 12.3 **Repair or renew the windows in the Property to ensure that they are in good and efficient working order and free from defect.**
 - 12.4 **Repair or renew the rainwater goods at the Property to ensure that they are effective in collecting rainwater and distributing it to the Property's drainage system.**
 - 12.5 **Eradicate any dampness within the Property.**
 - 12.6 **Repair or renew the front door and surrounding frame to ensure that there are no draughts.**
 - 12.7 **Carry out works to ensure that the doors and windows are draught free.**
 - 12.8 **Repair or renew the rotten window sill to the rear of the Property.**
 - 12.9 **Replace cracked and missing slates.**

The tribunal determined that the works are to be completed by 15 April 2024.

Reasons

13. The tribunal had inspected the Property and the schedule of photographs is referred to. It relied on what it had found at the inspection and the report of Gleason Historic Building Consultants.

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 J McAllister

Martin J. McAllister,
Solicitor, legal member of
Tribunal.
16 January 2024