

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION OF THE HOUSING AND PROPERTY CHAMBER OF THE FIRST-TIER TRIBUNAL FOR SCOTLAND UNDER SECTION 60(5) OF THE HOUSING (SCOTLAND) ACT 2006

Chamber Ref: FTS/HPC/RP/23/1459

Title no: GLA109493

Flat 2-1, 43 Keir Street, Glasgow G41 2LA ("the Property")

The Parties:-

Ms Gayle McNicol, Flat 2-1, 43 Keir Street, Glasgow G41 2LA ("the Tenant")

Mr Pappu Singh, 43 Traquair Drive, Cardonald, Glasgow G52 2TB ("the Landlord")

The Tribunal

R Mill (Legal Member)
L Charles (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Landlord has complied with the Repairing Standard Enforcement Order in respect of the Property made on 9 October 2023 and that a Certificate of Completion should be issued in terms of Section 60(5) of the Housing (Scotland) Act 2006.

Background

1. Following earlier sundry procedure, the tribunal found that the Property did not meet the Repairing Standard and in terms of a decision and corresponding Repairing Standard Enforcement Order (RSEO) dated 9 October 2023, the tribunal required the landlord to produce:
 1. To instruct a suitably qualified gas central heating engineer to inspect the gas central heating system and, in particular, investigate the cause of the failure of the radiators in the bathroom and bedroom 1 to produce heat and, thereafter, to

carry out necessary work to service, repair or replace same in order that they work effectively, and to prepare a written report confirming same.

2. The landlord was provided with a period of 4 weeks to complete the work required in terms of the RSEO.
3. The tribunal were informed by email on 17 October 2023 from the landlord that the works were complete. However no written report from the gas central heating engineer, as required by the RSEO was produced. The Applicant's representative was asked to confirm whether or not it was accepted that the RSEO had been fully complied with. A reply was received dated 1 November 2023 confirming that work had been carried out to the heating system, but that further difficulties had been encountered with the boiler leaking into the flat downstairs. It was further stated that there were difficulties with the "the boiler timing out and delays in the hot water". In the circumstances, the Tribunal extended the time period allowed to enable the Landlord to carry out all further necessary work to the gas boiler and to ensure that the boiler, radiators and hot water system were all working effectively. It was further specified, as it had been in the RSEO, that a written report by the gas central heating engineer would be required. A Direction dated 1 November 2023 reflecting this was issued allowing a further 4 weeks for compliance.
4. Some weeks later it was clear that there continued to be a dispute between the parties as to whether or not the heating system was fully operational. A written report from a gas central heating engineer had still not been produced. It was clear, to be fair to the Landlord, that steps had been taken to instruct necessary work and that a heating engineer had been onsite at the property on more than one occasion. The landlord had complained about the requirement to produce a written report but the tribunal, in a Direction dated 27 November 2023, made it clear that this was absolutely necessary given that it was a part of the RSEO and that it was essential that the tribunal had confirmation from a reliable third party source that the heating system (both the gas boiler and radiators) were working effectively.
5. On 19 December 2023 the landlord produced a comprehensively completed job report in relation to the work carried out at the property to both the boiler and radiators. The engineer report, which is professionally completed, refers to all of the work undertaken which confirmed that the boiler was working effectively.
6. The tenant's representative confirmed on 20 December 2023 that it was accepted that all the required works, in terms of the RSEO, had now been resolved.

7. In all of the circumstances, the tribunal dispensed with the need for any further hearing or further procedure and concluded that the RSEO has now been fully complied with.
8. The tribunal hereby certifies that the work required in terms of the RSEO has been fully completed and the Tribunal proceeds to issue a Completion Certificate. The Tribunal hereby also revokes the RRO as no longer being necessary as the property now meets the repairing standard.

Right of Appeal

9. 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.
10. 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.

In witness whereof these presents type written on this and the preceding page(s) are executed by R _____ Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the Tribunal at Edinburgh on 21 December 2023 before this witness:-

Legal Member

Witness

Name *

Address