

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Chamber Ref: FTS/HPC/RP/23/3783

3 Hill Place, Ardrossan, KA22 8HX, registered in the land Register of Scotland under Title Number AYR6528 (“the Property”)

The Parties:-

Mrs Nichola Milligan, 3 Hill Place, Ardrossan, KA22 8HX (“the Tenant” and “the Applicant”)

Mr Anthony Morrow, 11 Brisbane Street, Largs, North Ayrshire, KA30 8QW (“the Landlord” and “the Respondent”)

Tribunal Members:

Martin McAllister, Solicitor (Legal Member) and Sara Hesp, Chartered Surveyor (Ordinary Member) (“the tribunal”)

Decision

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

Background

1. By application dated 26 October 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 2006 Act. The application is in terms of Section 22 (1) of that Act.
2. The Applicant and Respondent are parties to a short assured tenancy agreement in respect of the Property.
3. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act. It states that the house does not meet the

tolerable standard and that the Tenant believes that the Property has rising damp.

Inspection

4. The tribunal inspected the Property on 13 October. The Tenant was present.
5. A copy of a schedule of photographs prepared by the Ordinary Member is attached to this Decision.

Findings on Inspection

6. The property comprises a main door entry ground floor flat in a tenement consisting of two storeys. The accommodation consists of living room, two bedrooms, kitchen and bathroom.
7. Weather conditions at the time of inspection were dry and relatively cold.
8. There is evidence of mould and dampness within the Property and moisture readings taken within the property identified the existence of damp.
9. Readings taken with a moisture meter showed readings in the “red” range in the front living room wall and “amber” readings in the living room party wall at the hallway side. High moisture readings were also detected in the porch area at either side of the front door.
10. A full inspection of the spare room could not be carried out because of the number of belongings stored in it. Moisture readings could not be taken at the front internal wall.
11. The existence of a carbon monoxide detector was noted in addition to a heat detector in the kitchen and smoke detectors in the hallway and living room.

The Hearing

12. A Hearing was held at Russell House, Ayr at 12.30 pm. The Landlord was present. The Tenant was not in attendance and was represented by Mr Alister Meek.
13. The Ordinary Member summarised the findings from the inspection which had taken place earlier in the day and which are detailed in this Decision.
14. Mr Meek was asked to comment on an email in which the Landlord’s letting agent had advised the Tribunal that their client had not been able to achieve

access to the Property. Mr Meek said that, as far as he knew, this was not the position and that the Landlord had not responded to the notification letter which had been sent to him in respect of the repairs required to the Property.

15. Findings in Fact

15.1 There is dampness to the walls at the front elevation of the Property and specifically at the living room and porch area.

15.2 The Property does not meet the tolerable standard.

Reasons

16. The tribunal had inspected the Property and the schedule of photographs is referred to. It relied on what it had found at the inspection.

Disposal

17. The tribunal determined to make a repairing standard enforcement order ("RSEO") in the following terms:

The landlord is required to

17.1 Investigate and remedy the damp evident to the inside front elevation of the Property

17.2 Make any repairs to the décor necessitated by the work to remedy the damp.

The tribunal determined that the RSEO required to be complied with by 15 May 2024.

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.

Martin J. McAllister,
Legal Member
14 February 2024