

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 14

Chamber Ref: FTS/HPC/RP/14/0177

45D Culloden Road, Arbroath DD11 1LH, registered in the name of the Landlord in the Land Register on 4 January 2023, Title Number ANG19249 (“The Property”)

The Parties:-

Michael Richardson, formerly residing at the Property, current address unknown (“the Tenant”)

and

S & N Dundee Investments Ltd, 2 West Grange Walk, Monifieth, Dundee, DD5 4PQ per AA Property Scot Ltd (“the Landlord”)

The Tribunal

Mr Maurice O’Carroll (Legal Member and Chair)

Mrs Sara Hesp (Ordinary Member) (Surveyor)

Decision

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’), having reinspected the Property on 5 February 2024 consider that the terms of the Repairing Standard Enforcement Order dated 23 June 2015 (‘the RSEO’) have not been satisfied in full.

Therefore, it declines to discharge the RSEO at this time.

Background

The original Tenant made a complaint to the Private Rented Housing Panel in 2015 (the predecessor to the Tribunal) alleging that the Property did not meet the Repairing Standard.

An inspection was carried out on 22 June 2015 and an RSEO dated 23 June 2015 was subsequently issued dated 30 June 2015. A re-inspection was carried out on 5 November 2015 where it was found that none of the repairs set out in the RSEO had been carried out. A Failure to Comply Notice was issued on 30 November 2015.

In October 2023, the Tribunal became aware of a change of ownership of the Property. A notification of the RSEO was sent to the current owner (the Landlord) on 9 October 2023. In response to that notification, the Landlord indicated that works had been carried out to the Property and that it wished to obtain a discharge of the RSEO.

A further re-inspection was carried out by the Tribunal on 5 February 2024. The day after the re-inspection, the Landlord's agent sent a copy of a valid EICR in respect of the Property to the Tribunal. A copy of the re-inspection report dated 9 February 2024 is appended to the present decision.

The re-inspection report was sent to the Landlord and its comments invited within 14 days. There having been no comments received, the Tribunal makes the following decision.

The terms of the RSEO

The RSEO required the following works to be carried out by the Landlord:

- 1) To carry out such works as are necessary to repair and make good the holes in the roof and ceilings above the living room and kitchen of the House so that it is windtight and watertight and reasonably fit for human habitation.
- 2) To replace the carpets throughout the House with floor coverings which are in a reasonable state of repair.
- 3) To repair or replace the upper and lower guttering to the property to ensure that it is in a reasonable state of repair and in proper working order.
- 4) To repair and make good the hole in the fascia facing the street so that it is in a reasonable state of repair and the House is wind and watertight.
- 5) To obtain an Electrical Installation Condition Report from a suitably competent person (NICEIC or SELECT registered) to include the shower and lighting circuits at the property to ensure that they are in a reasonable state of repair and in proper working order.

Findings after the second re-inspection

As indicated above, requirement (5) was satisfied on the day following the re-inspection. As is clear from the second re-inspection report, all other requirements of the RSEO were met with the exception of requirement (3).

Reference is made to page 7 of the re-inspection report where the following is stated:

'Work not completed:

- 3) There is vegetation and debris to the lower guttering to the entrance elevation and this should be removed to ensure that the water goods are in proper working order.
(See photograph 9)'

Decision and comment

In light of the fact that a specific requirement of the RSEO had not been completed, the Tribunal considered that it was unable to discharge the RSEO in terms of section 60 of the 2016 Act.

However, given that the remaining requirement is relatively minor in nature, the Tribunal did not consider that it would be proportionate to issue a further Failure to Comply Notice or to carry out a further reinspection.

In the circumstances, the Tribunal is prepared to allow the Landlord to carry out the repairs and to provide photographic evidence of this having been done, along with associated invoice(s) and/or work specification to vouch that such works have been completed.

In the event that such vouching is provided, the Tribunal will again consider the terms of the RSEO and whether it may then be discharged.

In the meantime, the RSEO remains in place meaning that the Property may not be let as indicated in the Tribunal correspondence dated 9 October 2023.

A landlord or tenant aggrieved by this decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only 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 the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

Date 11 March 2024

Chairman Maurice O'Carroll, Advocate



Re-inspection report



Photograph 1: Entrance elevation

Property: 45D Culloden Road, Arbroath DD11 1LH
Ref no: FTS/HPC/RP/14/0177
Surveyor: Sara Hesp LLB(Hons) BA(Hons) MRICS ACI Arb

Access:

I re-inspected the subject property on Monday 5 February 2023. I was accompanied by the Legal Member of the Tribunal, Mr O'Carroll.

Access was given by the landlord's agent, Mr Naseer of AA Property Scot Ltd.

General observations:

The weather was cloudy but dry, although there had been recent rain.

All photographs contained in this report were taken during the inspection.

Purpose of re-inspection:

The purpose of this re-inspection was to investigate whether work required under the Repairing Standard Enforcement Order (RSEO) had been completed.

Work required:

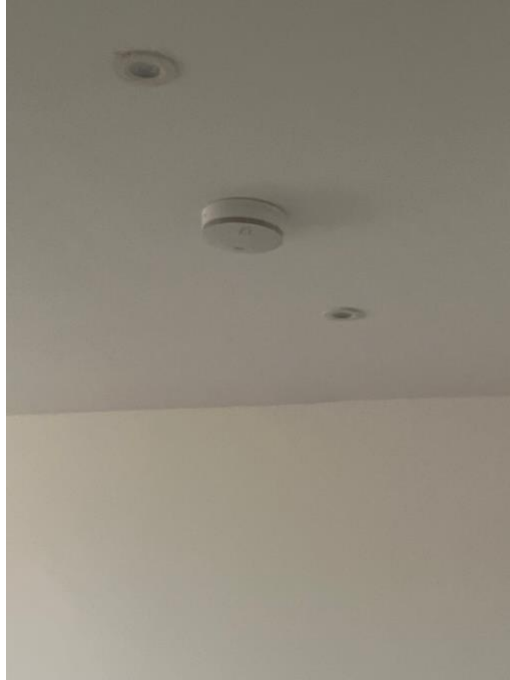
The following repairs were required of the landlord by the Repairing Standard Enforcement Order dated 23 June 2015:

The Tribunal required the landlord:

- 1) *To carry out such works as are necessary to repair and make good the holes in the roof and ceilings above the living room and kitchen of the House so that it is windtight and watertight and reasonably fit for human habitation.*
- 2) *To replace the carpets throughout the House with floor coverings which are in a reasonable state of repair.*
- 3) *To repair or replace the upper and lower guttering to the property to ensure that it is in a reasonable state of repair and in proper working order.*
- 4) *To repair and make good the hole in the fascia facing the street so that it is in a reasonable state of repair and the House is wind and watertight.*
- 5) *To obtain an Electrical Installation Condition Report from a suitably competent person (NICEIC or SELECT registered) to include the shower and lighting circuits at the property to ensure that they are in a reasonable state of repair and in proper working order.*

Work carried out:

- 1) The living room and kitchen ceilings have been replaced so that they appear to be windtight and watertight.



Photograph 2: Living room ceiling (with smoke detector)



Photograph 3: Kitchen ceiling (with heat detector)

- 2) The carpets in the House have been replaced and are in a reasonable state of repair.



Photograph 4: Living room carpet.



Photograph 5: Bedroom carpet



Photograph 6: Hallway

- 3) The guttering to the street elevation appears to have been replaced. The upper guttering to the entrance elevation appears to be in working order.



Photograph 7: Street elevation



Photograph 8: Guttering – street elevation



Photograph 9: Entrance elevation: guttering

- 4) The hole in the fascia facing the street has been repaired and the fascia is now in a reasonable state of repair. See Photograph 7.
- 5) An Electrical installation Condition Report dated 4 February 2023 has been provided, rating the condition of the installation as *Satisfactory* and without any Code C1 or Code C2 classifications, carried out by a SELECT accredited contractor.

Work not completed:

3) There is vegetation and debris to the lower guttering to the entrance elevation and this should be removed to ensure that the water goods are in proper working order.
(See photograph 9)

Comment

This report will be circulated to the parties for comment and these comments will be referred to the Tribunal for consideration and further appropriate action.

First Tier Tribunal for Scotland (Housing and Property Chamber)
9 February 2024