



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Sections 26 (1) and 60 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/23/1031

Re: Property at Building 6, Flat 5, Elliot Street, Edinburgh EH7 5LU (“the Property”)

Title Number: MID191660

Parties:

Mr David Gregory, Building 6, Flat 5, Elliot Street, Edinburgh EH7 5LU (“the Tenant”)

Mr Mark Platt, Gwynfi, 58 Newland Avenue, Driffield, North Humberside YO25 6TX (“the Landlord”)

Tribunal Members:

George Clark (Legal Member) and Andrew Murray (Ordinary/surveyor Member)

Decision

The First-tier Tribunal for Scotland Housing and Property Chamber, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 decided that the Landlords have complied with the Repairing Standard Enforcement Order made on 24 August 2023 and that a Certificate of Completion of Works should be issued.

Background

1. On 24 August 2023, The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“The Act”). The Tribunal made a Repairing Standard Enforcement Order (“the Order”), requiring the Landlord:

- I. to carry out such repairs to the windows in the living room and rear left hand bedroom as are required to make them wind and water tight and capable of being safely opened and closed.
- II. to clean off the mould around the windows in the living room and rear left hand bedroom and redecorate as necessary.
- III. to carry out such repairs as are required to ensure the storage heater in the hallway is fully functional, or to replace it.
- IV. to replace the damaged electrical socket in the living room.
- V. to provide the Tribunal with an Electrical Installation Condition Report, dated after the date of completion of Items 3 and 4 of this Order, certified by a SELECT, NAPIT or NICEIC registered electrical contractor, and containing no C1 or C2 items of disrepair.

The Tribunal ordered that the works required by the Order must be carried out within three months of the date of service of the Order on the Landlord.

2. The Tribunal reinspected the Property on the morning of 27 February 2024, attended by both the Tenant and the Landlord.

Hearing

3. The Tribunal held a Hearing by means of a telephone conference call on the afternoon following the Reinspection. Both Parties took part in the Hearing.

Reasons for Decision

4. The Tribunal noted that the electrical socket in the living room has been secured. Minor repairs have been carried out to the windows in the living room and rear left bedroom, which appear now to be wind and water tight and capable of being safely opened and closed. A small section of draught excluding foam attached to the living room window requires to be reattached. The mould around the affected windows has been cleaned off and they have been repainted.
5. The Tribunal could not determine whether the storage heater in the hall is fully functional, as it operates on a night storage basis. The Tribunal was, however, satisfied that any if power was not reaching it, this would show up in the Electrical Installation Condition Report.
6. The Landlord told the Tribunal at the Hearing that an electrical contractor had inspected the Property on 5 February 2024. He had recommended some works and was scheduled to return to the Property on the morning of the Tribunal's inspection to carry out the work and thereafter issue an Electrical Installation

Condition Report (“EICR”). The Tribunal agreed to delay issuing its Decision for a few days, to enable the Landlord to forward the EICR and the Tribunal Members to consider it.

7. Later in the day, on 27 February 2024, the Landlord forwarded an EICR, referring to an inspection on 5 February 2024, issued by Leading Electrical Solutions Limited, Edinburgh, together with proof of their registration with SELECT. The EICR did not contain any C1 or C2 items of disrepair and rated the overall installation as “Satisfactory”. The Tribunal was prepared to accept the EICR.
8. The Tribunal is satisfied that all the works required by the Order have now been satisfactorily completed. Accordingly, a Certificate of Completion of Works should be issued.

The decision of the Tribunal was unanimous.

Right of Appeal

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.

G Clark

Legal Member

6 March 2024