

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 24(1)

Reference number: FTS/HPC/RT/23/2255

Re: Property at 11 Oxfangs House, Edinburgh, EH13 9HE (“the Property”)

Title Number: MID99515

The Parties:

The City of Edinburgh Council, Housing and Regulatory Services, G1 Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG (“The applicant”)

Mr Mohammed Abrar, residing at 143 Glasgow Road, East Kilbride, South Lanarkshire G74 4QA (“the Landlord”)

Interested Party:

Jessica Brandon and Jamie Hicks residing together at 11 Oxfangs House, Edinburgh, EH13 9HE (“the Tenant”)

Tribunal Members:

Paul Doyle (Legal Member)

Greig Adams (Surveyor Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order (“RSEO”) dated 12 October 2023 determined that the Landlord has failed to comply with the RSEO.

Background

(1) On 12 October 2023 the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) issued a decision requiring the Landlord to comply with the

repairing standard enforcement order (“RSEO”) made by the tribunal on 12 October 2023. On 15 January 2024 tribunal members re-inspected the property.

(2) The Repairing Standard Enforcement Order (“RSEO”) required the Landlord to

(a) Instruct a suitably qualified Gas Safe registered engineer to inspect and carry out all works necessary to leave the gas central heating system and boiler in good working order. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with an up-to-date and satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.

(b) Ensure that interlinked smoke and heat detectors, and carbon monoxide detectors are installed within the property, ensuring that they are fully functional and located and powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.

(c) Repair or replace door stop, door handle & latch and multipoint locking mechanism on the front door to the property

(d) To obtain either (i) a Building Warrant/and or Completion Certificate issued by the local authority, or (ii) obtain a report from the local authority’s Property Inspection service, or (iii) obtain a Certificate of Completion for the en-suite shower room/wc. If the local authority refuse to (iv) grant Building Warrant and/or Completion Certificate, or (v) detail remedial works required within the Property Inspection service report or (vi) refuse to grant a Certificate of Completion, either a) remove the ensuite shower/wc and reinstate the pre-existing storage space or b) carry out all works recommended by the local authority advised in obtaining items (i)-(iii) and also progress all works to comply with the Building (Scotland) Regulations 2004.

All within 28 days.

3. On 15 January 2024, tribunal members reinspected the property and found that only a fraction of the works required by the RSEO had been completed. The Ordinary member prepared a report containing photographs taken during the inspection.

4. A hearing took place at 11.45am at George House, George Street Edinburgh. The tenants attended. Ms R Laidlaw represented the Applicant. The landlord was neither present nor represented.

5. On 9 February 2024 the tribunal found that the Landlord had failed to comply with the RSEO and refused to issue a certificate of completion.

6. The landlord still needs to complete the following works before a certificate of completion can be issued

(a) Instruct a suitably qualified Gas Safe registered engineer to inspect and carry out all works necessary to leave the gas central heating system and boiler in good working order. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with an up-to-date and satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.

(b) Ensure that carbon monoxide detectors are installed within the property, ensuring that they are fully functional and located and powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.

(c) Repair or replace door stop, door handle & latch and multipoint locking mechanism on the front door to the property

(d) complete removal of the ensuite shower/wc and reinstate the pre-existing storage space by capping the soil pipe properly.

7. The tribunal finds that the Landlord has not taken the terms of the repairing standard enforcement order dated 12 October 2023 seriously, leaving a young family without adequate heating and without a reliable supply of hot water throughout the winter months.

8. The tribunal decides to impose a rent relief order. As the landlord has chosen not to carry out most of the repairs required, and the quality of the tenant's peaceful enjoyment of the property is adversely affected by the Landlord's decision, the tribunal decided that significant restriction of rental is merited. The tribunal therefore granted a Rent Relief Order for 30% of the monthly rental.

Right of Appeal

A landlord, tenant or third party applicant aggrieved by the 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 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 terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

P Doyle

Legal member of the tribunal

Dated: 9 February 2024