

Housing and Property Chamber First-tier Tribunal for Scotland



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

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

STATEMENT OF DECISION of the First-tier Tribunal for Scotland (Housing and Property Chamber)
under section 25 (1) of the Housing (Scotland) Act 2006

Ref: FTS/HPC/RT/19/2901

Property at 157 Neilston Road, Paisley, PA2 6QL ("the Property") .

The Parties:-

Renfrewshire Council, Community Housing and Planning Services, Renfrewshire House,
Cotton Street, Paisley, PA1 1JD ("the Third Party Applicant")

and

Mr Mansoor Zafar, 21 Briarlea Drive, Giffnock, G46 6DS ("The Landlord")

Tribunal Members:-

Andrew Cowan (Legal Member)

Carol Jones (Ordinary Member)

Background

1. By application dated 16th September 2019, the Third Party Applicant (herein after referred to as "the Council") made an application to the First-tier Tribunal (Housing and Property Chamber) indicating that they believed that the Landlord was failing to comply with the duties imposed upon him by section 14(1)(d) of the Housing (Scotland) Act 2006 ("the 2006 Act"). Following upon an inspection of the Property by the Tribunal on 9th January 2020 the Tribunal issued a decision indicating that the Landlord had failed to comply with the various duties imposed upon him by the 2006 Act and the Tribunal issued a Repairing Standard Enforcement Order (RSEO) dated 17th January 2020 in respect of the property.
2. In terms of the RSEO the Landlord was ordered to carry out certain works to the property and to produce certain documents within a period of time, all as specified in the RSEO.

3. Following the issue of the RSEO a re-inspection of the property was not immediately possible due to restrictions imposed during the Covid pandemic. On 25th November 2020 the Landlord provided certain reports and photographs in respects of some works that had been completed at the Property. The Tribunal convened a Case Management Discussion to discuss the evidence produced by the Landlord. The Case Management Discussion took place on 18 January 2021 by conference call. At the Case Management Discussion the Tribunal reviewed each part of the RSEO. At that time it was agreed it was necessary to arrange a further inspection of the Property to allow the Tribunal to view the repairs carried out by the Landlord and to allow the Tribunal to determine whether the Landlord had now complied with the RSEO.
4. A re-inspection was finally arranged for the 22nd September 2021. Arrangements were made for the Tribunal to re-inspect the Property on that date. The Landlord and a representative from the Council were both in attendance at the re-inspection. A report was prepared and photographs were taken. That report was issued to the Parties by letter dated 29th September 2021. The letter issued to Parties advised parties that they had a period of 14 days from the date of the letter to submit any comments they would wish to make on the terms of the report prepared by the Tribunal following the re-inspection. Parties were advised that at the end of that period of 14 days the Tribunal would make a decision as to whether the Landlord had complied with the terms of the RSEO.
5. Following the issue of the re-inspection report the Landlord emailed the offices of the Tribunal. In that email he indicated that he had carried out some further work to comply with the terms of the RSEO, although he still required time to complete certain other works as required by the RSEO.
6. The Tribunal thereafter had various correspondence with the Landlord in relation to the nature and extent of the works which were required by the Landlord to ensure that the Property met the repairing standard.
7. The Landlord had indicated to the Tribunal that he did not intend to let the property again, and that he intended to sell the Property.
8. Following further correspondence with the Landlord the Tribunal again arranged to reinspect the Property on 3rd November 2023. At that inspection the Landlord's sister Ms. Ayasha Faisal provided access to the Property.
9. A report of the observations of the Tribunal from that re-inspection is attached as a schedule to this decision. A copy of the re-inspection report was sent to the Landlord. The Landlord was given a period of 14 days to submit any comments they would wish to make on the terms of the inspection report.
10. By email dated 20th November 2023 the Landlord commented on the re-inspection report. The Landlord provided a gas safety record dated 11 February 2023 with that response.
11. Having reviewed the available documentation and taking account of their own observations from the re-inspection of the Property on 3rd November 2023 the Tribunal were satisfied that the Landlord had carried out sufficient work to establish that all works required by the RSEO dated 17th January 2020 were complete, with the exception of work which was required to install smoke and heat detectors in the property as required in terms of the current Scottish Government Statutory Guidance for the satisfactory provision for the detection and warning in the event of fire and suspected fire and current building regulations.
12. Smoke and heat detectors have been installed in the Property. At the time of the Tribunal's re-inspection of the Property on 3rd November 2023 the smoke detector in the hall of the property was not in working order. The smoke detectors in the living room and the kitchen were wall mounted and did not appear to be interlinked. Current statutory guidance requires that smoke detectors should be ceiling mounted and interlinked,
13. In the circumstances the Tribunal determined that the Landlord has continued to fail to ensure that the property has appropriate equipment for detecting fire and for giving warning of fire or suspected fire installed in compliance with guidance issued by the Scottish Ministers

14. The RSEO dated 17th January 2020 was not registered on the title of the Property.
15. Given the history of this case the Tribunal has determined to revoke the RSEO dated 17th January 2020.
16. As the Tribunal has determined that the Landlord has continued to fail to ensure that the property has appropriate equipment for detecting fire and for giving warning of fire or suspected fire (installed in compliance with guidance issued by the Scottish Ministers) the Tribunal has determined to grant a new RSEO in respect of the Property.
17. In terms of that RSEO the Tribunal require the Landlord
 - a. to ensure that the property has appropriate equipment for detecting fire and for giving warning of fire or suspected fire installed in compliance with guidance issued by the Scottish Ministers and
 - b. to provide the Tribunal with a written report from a suitably qualified and registered SELECT, NAPIT or NICEIC electrical contractor that the smoke and heat detectors installed in the property comply with current Scottish Government guidance for the satisfactory provision for the detection and warning in the event of fire and suspected fire.
 - c. to complete the works required by the RSEO issued in terms of this decision by 12th April 2024.

Right of Appeal

18. 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.
19. 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.

A Cowan

Date 4th March 2024