



Housing and Property Chamber First-tier Tribunal for Scotland



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

Certificate of Completion of Work issued by the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 60 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/23/1384

Re: Property at 9, Stenhouse Street East, Edinburgh, EH11 3DD registered in the Registers of Scotland under Title Number MID48799 ("the Property")

The Parties:

Mr. Abdulhafeez Adelakun and Ms. Grace Otoni residing at the Property ("the Tenants")

And

Mrs. Carol Graham residing at The Schoolhouse Cottage 2b, Baird Road, Ratho, EH28 8RA ("the Landlord") per her agents, Messrs. Murray and Currie, Property, Sales and Letting, 60, Queen Street, Edinburgh EH2 4NA ("the Landlord's Agents")

Tribunal Members:

Karen Moore (Chairperson) and Andrew McFarlane (Ordinary and Surveyor Member)

Notice to Landlord

Mrs. Carol Graham residing at The Schoolhouse Cottage 2b, Baird Road, Ratho, EH28 8RA

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") now hereby certifies that the work required by Repairing Standard Enforcement Order (RSEO) in respect of the Property dated 2 August 2023 the RSEO has been completed fully and so the Tribunal discharges the said RSEO.

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: In Witness Whereof these presents printed on this and the preceding page are subscribed by Karen Moore, Chairperson of the tribunal, at Glasgow on 9 April 2024 before this witness, Norman William Moore, solicitor, 11, Muirfield Business Centre, South Muirhead Road, Cumbernauld, G67 1AX

K Moore

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 60 of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22(1) of the Act

Chamber Ref: FTS/HPC/RP/23/1384

Re: Property at 9, Stenhouse Street East, Edinburgh, EH11 3DD registered in the Registers of Scotland under Title Number MID48799 (“the Property”)

The Parties:

Mr. Abdulhafeez Adalakun and Ms. Grace Otoni residing at the Property (“the Tenants”)

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Tribunal Members:

Karen Moore (Chairperson) and Andrew McFarlane (Ordinary and Surveyor Member)

Decision of the Tribunal

The Tribunal, having made such enquiries as it saw fit for the purposes of determining whether a certificate of completion in respect of the Repairing Standard Enforcement Order (RSEO) can be granted, determined that, as it is satisfied that the work required by the RSEO has been carried out, a certificate in terms of Section 60 of the Act is granted.

This Decision should be read in conjunction with Decision and RSEO both dated 2 August 2023.

Background

1. By application received between 2 and 4 May 2023 (“the Application”), the first-named Tenant of the Property applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on her by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1) (a), 13(1) (b), 13(1) (d) 13(1) (e) and 13(1) (h) of the Act. The Application comprised a copy of the tenancy agreement between the Tenants and the Landlord, copy correspondence between the Tenants and the Landlord’s Agents regarding repairs to the Property and copy photographs of the condition of the Property.
2. The Application was referred to the Tribunal. An Inspection of the Property and a Hearing were fixed for 31 July 2023 and intimated to the Parties. Prior to the Inspection and Hearing, the Landlord’s Agents lodged a survey report of the Property prepared by Jason Barrie, Surveyor, of Richardson and Starling on 18 July 2023.

Inspection and Hearing

3. The Inspection of the matters complained of in the Application took place at the Property on 31 July 2023 at 10.00 am. The Landlord was not present or represented. The Hearing took place on 31 July 2023 at 11.45 am at George House, Edinburgh. The Tenants took part and were not represented. The Landlord was not present or represented.
4. The outcome of the Hearing was that the Tribunal found that the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act and imposed the following RSEO:

“The Landlord must on or before 20 September 2023 carry out all of the following:-

1. *Carry out works to adjust the door leaf in the door from the kitchen to the lounge so that it fits properly in the frame and otherwise is reasonably fit for human habitation.*
2. *Carry out all works as necessary both internally and externally to eliminate the penetrating dampness in the main bedroom and render the Property wind and watertight and in all other aspects reasonably fit for human habitation.*
3. *Carry out all works necessary to bring the structure and exterior of the house (including drains, gutters and external pipes) into a reasonable state of repair and in proper working order and so ensure that the Property is dampness free, wind and watertight and in all other aspects reasonably fit for human habitation.*
4. *Remove the existing defective sealed double glazing unit in the side window to the kitchen and replace with a new unit to bring the structure and exterior of the house into a reasonable state of repair and leave in proper working order.*

5. *Engage with the other proprietors in the block of which the Property forms part and with Scottish Water as necessary to investigate the issues with drainage system leading to a failure to drain wastewater away adequately and carry out all necessary remedial works to ensure that the installations in the Property for sanitation are in a reasonable state of repair and in proper working order.*
6. *Carry out all works necessary to ensure that the linings and shelves of the built-in cupboard in the kitchen are complete and that the cupboard is in a reasonable state of repair, free from draughts and in proper working order.*
7. *Investigate the draughts entering the Property from the cupboard under the sink and carry out all works necessary to ensure that the cupboard is in a reasonable state of repair, free from draughts and in proper working order.*
8. *Repair or if necessary, replace the ignition switch on the gas hob to render it operational in the intended manner and that it is in a reasonable state of repair and in proper working order. In the event that the ignition switch cannot be repaired or replaced, replace the gas hob oven with a gas hob oven which is in proper working order.*
9. *Repair or, if necessary, replace the bedframe to provide the intended support to the mattress and the dining table so that they are capable of being used safely for the purposes for which they are designed.*
10. *Carry out all incidental and decorative works occasioned by the works necessary to comply with this Order to leave the Property in the condition required by the Repairing Standard.”*

Re-inspection and Hearing

5. Following the expiry of the time limit set out in the RSEO, a Re-inspection was fixed for 14 December 2024 at 10.00am. Prior to that date, the Landlord's Agents submitted email correspondence explaining the works which had been carried out at the Property and works which were planned.
6. The Re-inspection took place on 14 December 2024 at 10.00am. The Tenants were present and not represented. The Landlord was not present and was represented by Ms. Greene and Mr. Mackie of the Landlord's Agents. A Re-inspection Report with supporting photographs was prepared and issued to the Parties.
7. The first-named Tenant on behalf of the Tenants advised the Tribunal in writing that the Tenants' considered that the RSEO had not been complied and provided photographic evidence of water escaping from the gutters.
8. The Landlord advised the Tribunal in writing that she considered that the works required by the RSEO had been carried out.

9. As there was a dispute in respect of compliance with the RSEO, a Hearing was fixed for 9 April 2024 at 10.00 by telephone conference call. Prior to the Hearing, the Landlord's Agents provided photographic evidence and copy invoices showing that the gutters had been repaired.
10. The Hearing took place on 9 April 2024 at 10.00 by telephone conference call. The Tenants were present and not represented. The Landlord was present and was supported by her husband. The Landlord was represented by Ms. Greene and Mr. Mackie of the Landlord's Agents.
11. The Tribunal advised that the purpose of the Re-Inspection and Hearing were to determine if the RSEO had been complied with. The Tribunal asked the first-named Tenant his view on the works now carried out and he confirmed that the Tenants were now that satisfied the works required by the RSEO had been carried out. Ms. Greene explained that the gutter repair had taken longer than expected as it was a common repair and asked that the Tribunal discharge the RSEO.

Findings of Fact

12. The Tribunal's findings in fact were made from all of the information before it being the Application, the Inspection and Hearing on 2 August 2023, the documents and correspondence submitted by the Parties, the Re-inspection on 14 December 2023 and the Hearing on 9 April 2024.
13. The Tribunal found the following matters established: -
 1. The door leaf in the door from the kitchen to the lounge fits properly in the frame.
 2. The penetrating dampness previously noted in the main bedroom was no longer detected.
 3. Repair works have been carried out to the drains, external vegetation had been removed and works have been carried out at dpc level externally.
 4. The side window to the kitchen has been replaced with a new unit.
 5. Repair works have been carried out in respect of the kitchen and bathroom drainage.
 6. Gaps in the linings in the built-in cupboard in the kitchen have been infilled with expanding foam.
 7. In the kitchen, sub floor vents have been unblocked and the floor has been sealed.
 8. The gas hob in the kitchen had been replaced with a new item.
 9. A new bedframe has been provided.
 10. Decorative works have been carried out in the rear bedroom.
 11. The gutters have been repaired.

Decision of the Tribunal and Reasons for the Decision of the Tribunal

14. Having found that the works required by the RSEO have been carried out, the Tribunal issued a certificate of completion in terms of Section 60 of the Act.

15. The decision of the Tribunal is unanimous.

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.

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K Moore

Signed

Karen Moore, Chairperson

9 April 2024