

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 26(1) and 60 of the Housing (Scotland) Act 2006 – Refusal to Grant a Certificate of Completion

Housing (Scotland) Act 2006 (“the 2006 Act”)

Chamber Ref: FTS/HPC/RT/23/1689

Title no/Sasines Description: REN93647

Flat 1/2, 63 Park Road, Paisley, PA2 6YB (“the House”)

The Parties:-

Renfrewshire Council (Environment, Housing & Infrastructure, Renfrewshire House, Cotton Street, Paisley, PA1 1BR (“the Third Party Applicant”)

Mr Philip Smith, 28 Ranfurly Road, Glasgow, G52 2RJ (“the Landlord”)

Tribunal Members: Mrs Nicola Weir, Legal Member and Ms Lori Charles, Ordinary Member

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”) in relation to the House dated 5 September 2023, determined that the Landlord has failed to comply with the RSEO and that a Certificate of Completion should not be issued.

Background

1. By application received on 25 May 2023, the Third Party Applicant applied on behalf of the Tenant to the Tribunal in terms of Section 22 of the 2006 Act claiming breach of the Repairing Standard by the Landlord in respect of various repair issues affecting the House, including water ingress at a living room wall; the Tenant not having been provided with an EICR or Gas Safety Certificate; a

damaged and leaking overflow pipe from the toilet cistern; a damaged window handle in the spare room; damaged and leaking washing machine; and issues with missing smoke and heat alarms. Supporting documentation was submitted with the application. The application indicated that the Tenant, Ms Courtney Affleck, did not wish to be party to the application.

2. On 15 June 2023, a Legal Member of the Tribunal, acting under delegated powers in terms of Rule 9 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) issued a Notice of Acceptance of the Application. Notice of Referral to the Tribunal and Inspection and Hearing was issued to the parties on 25 July 2023, requesting that any written representations should be lodged with the Tribunal by 15 August 2023. No written representations were lodged by the Landlord who has not been in contact with the Tribunal.
3. The Tribunal Members carried out an Inspection of the House at 10 am on 29 August 2023. The Tenant was present as was Ms Michelle Stewart, Housing Support Worker (PRS) of Renfrewshire Council who was attending in a supportive capacity. Mr Martin Salisbury, Environmental Health Enforcement Officer of Renfrewshire Council, who had completed the Third Party Application on behalf of the Tenant, was also in attendance. The Landlord did not attend.
4. The Hearing took place in-person at Glasgow Tribunal Centre at 11.30am on 29 August 2023. Mr Salisbury (Third Party Applicant) attended. The Tenant had indicated at the Inspection that she was unable to attend the Hearing. The commencement of the Hearing was delayed slightly to give the Landlord an opportunity to attend late but he did not do so.
5. Following the Hearing, the Tribunal determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the 2006 Act to ensure that the House meets the Repairing Standard and proceeded to make an RSEO as required by Section 24(1) of the 2006 Act. The RSEO was dated 5 September 2023 and required the Landlord, within 6 weeks of the date of the RSEO:-
 - (1) *To submit to the Tribunal an up to date, satisfactory and complete Electrical Installation Condition Report (EICR) in respect of the installations in the House for the supply of electricity and the electrical fixtures and fittings, and a Portable Appliance Test (PAT) in respect of any portable electrical appliances from a suitably qualified and registered SELECT, NICEIC or NAPIT contractor to ensure that the installations in the house for the supply of electricity are in a reasonable state of repair and in proper working order.*
 - (2) *To submit to the Tribunal an up to date and satisfactory Gas Safety Record from a Gas Safe registered engineer in relation to the House.*
 - (3) *To repair or, as necessary, replace the toilet cistern and toilet overflow pipe in the bathroom to ensure that these items are in a reasonable state of repair and in proper working order.*

- (4) To replace the missing window handle in the spare bedroom to ensure that the window is in a reasonable state of repair and in proper working order and can be properly closed and secured.*
 - (5) To have the cause of the leak(s) from the washing machine in the kitchen investigated by a suitably qualified tradesperson and thereafter to have the washing machine repaired or, as necessary, replaced to ensure that this appliance is in a reasonable state of repair and in proper working order.*
 - (6) To install hard-wired and interlinked smoke alarms in the living room and hallway and a heat alarm in the kitchen to ensure that there is satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and that the tolerable standard is met.*
6. Following the issue of the RSEO, no representations were received from either party. Accordingly, on expiry of the time period for compliance by the Landlord with the RSEO, the Tribunal decided to re-inspect the House.
 7. The Re-inspection by the Tribunal took place on 1 December 2023. The Tenant was present as again was Ms Michelle Stewart, Housing Support Worker (PRS) of Renfrewshire Council who was attending in a supportive capacity. Neither Mr Salisbury, the Third Party Applicant, nor the Landlord attended. The Tribunal noted that the Tenant was in the process of packing up and removing from the House. The Tenant and Ms Stewart advised that the Tenant had now secured local authority housing into which she would be moving imminently. The Tribunal was also advised that there had been an electrical issue with the House a few weeks ago which had been intimated to the Landlord. The Landlord's contractor attended and shut off the electricity which the Tenant stated had meant that she had been without electricity or heating since then. However, the contractor had also installed smoke alarms and a heat detector at that time. The Tenant stated that none of the other repairs required by the RSEO had been attended to.
 8. A copy of the Ordinary Member's Re-inspection Summary and Schedule of Photographs dated 1 December 2023 is attached to this Decision and referred to for its terms. The Re-inspection Report was issued to parties, requesting their comments. No comments were received from either party in response.
 9. Having considered their findings on Re-Inspection the Tribunal was of the view that a further Hearing was not required on this matter and proceeded to make their decision.

Reasons for decision

1. The Tribunal considered whether the works stipulated in the RSEO had been completed and the requirements of the RSEO met.
2. The Tribunal was satisfied that only the works stipulated in part (6) of the RSEO had been carried out, namely the installation of smoke alarms in the living room

and hallway and a heat alarm in the kitchen. These detectors appeared to be hard-wired but it had not been possible for the Tribunal to check if they were inter-link and operating properly due to the fact that there was no electricity in the House when the Tribunal re-inspected. None of the other repairs had been carried out and nor had the Landlord complied with parts (1) and (2) of the RSEO as he had not submitted to the Tribunal an EICR nor a Gas Safety Record.

3. The Tribunal accordingly determined that the RSEO has not been complied with and should remain in place as the Repairing Standard is not met. The Tribunal then considered whether to impose a Rent Reduction Order (“RRO”) in view of the Landlord’s non-compliance. However, given that the Tenant was about to move out of the House in early December 2023 and is presumably no longer resident, an RRO was not considered necessary at the present time, although may be appropriate at a later stage should the circumstances change.
4. The Tribunal not being satisfied that the requirements of the RSEO have been met, determined that there was non-compliance by the Landlord in terms of Section 26(1) of the 2006 Act and that a Certificate of Completion should not accordingly be issued in terms of Section 60 of the 2006 Act.
5. The decision of the Tribunal was unanimous.

Right of Appeal

A landlord, tenant or third party applicant 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.

In terms of Section 63 of the Act, 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.

N Weir

Signed..... Date: 18 January 2024
Nicola Weir, Legal Member of the Tribunal