

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION OF THE HOUSING AND PROPERTY CHAMBER OF THE FIRST-TIER TRIBUNAL FOR SCOTLAND UNDER SECTION 60(5) OF THE HOUSING (SCOTLAND) ACT 2006

Chamber Ref: FTS/HPC/RP/23/0032

Title no: GLA87317

104 Queens Drive, B/2, Glasgow G42 8BJ
("the property")

The Parties:-

Dr Emma El Makdessi, residing at 104 Queens Drive, B/2, Glasgow G42 8BJ
("the tenant")

Ms Mary Elizabeth Glackin, residing at 31 Kimberley Drive, Crosby, Liverpool L23 5TA
("the landlord")

The Tribunal

Richard Mill (Legal Member)
Nick Allan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") unanimously determined that the Landlord has complied with the Repairing Standard Enforcement Order in respect of the Property made on 31 March 2023 and that a Certificate of Completion should be issued in terms of Section 60(5) of the Housing (Scotland) Act 2006.

Background

1. The tribunal made a Repairing Standard Enforcement Order (RSEO) dated 31 March 2023 which required the Landlord:-
 1. To install an effective extractor fan in the bathroom to ensure the adequate removal of moisture. This has to comply with all relevant statutory legislation and regulations in force in Scotland.

2. To remove and treat all black mould on the ceiling, walls and bathroom sealant and to thereafter redecorate those affected areas.
2. The tribunal attempted to reinspect the property on 19 July 2023. Access however was not permitted by the tenant as she had forgotten about the arrangements. In an attempt to deal with the matter proportionately a direction was issued on 19 July 2023 requiring both parties to advise whether or not they considered the works specified in the RSEO to have been undertaken. The tenant subsequently complained that she did not believe that all the necessary works were complete. This led to a further direction being issued by the tribunal dated 10 August 2023 making it clear for the purposes of the landlord and her letting agent that any works still required by the RSEO must be undertaken, failing which, at public expense, a further inspection and hearing would be required with the possibility that a failure to comply decision would be made.
3. The tenant subsequently advised the tribunal on 15 August 2023 that the works had been completed and further work had been undertaken on 9 August 2023. She was invited to provide photographic evidence in order that the tribunal could conclude the process and issue a Compliance Certificate.
4. The tenant has subsequently failed to communicate with the tribunal. In the circumstances a further Direction was issued dated 14 September 2023. The tribunal directed that it was proportionate to bring the proceedings to an end applying Rule 2 of the 2017 procedure rules. It was made clear to parties that in the event that no further relevant communication was received within 14 days that the tribunal would proceed to issue a Compliance Certificate and corresponding Decision. No such further communications were received.
5. The tribunal was satisfied, having specific regard to the tenant's own confirmation that the works had been completed (by her email of 15 August 2023), and the absence of any further representations being made, despite both parties being given a fair opportunity to do so, that the works required by the RSEO have now been completed and the property now meets the repairing standard. The tribunal accordingly determined that the landlord has complied with the Repairing Standard Enforcement Order made on 31 March 2023 and a Certificate of Completion should, in these circumstances, be issued.

Right of Appeal

6. 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.

7. 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 type written on this and the preceding page(s) are executed by Richard George Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the Tribunal at Edinburgh on 9 October 2023 before this witness:-

R Mill

Legal Member

C McNaught

Witness

Name

Address