

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/RT/23/1265

Title no: MID64269

**35 Eskview Terrace, Musselburgh EH21 6LT
("the Property")**

The Parties:-

**Mr Craig Oliver and Mrs Rochelle Oliver, 46 Denholm Road,
Musselburgh EH21 6TU
("the landlords")**

The Tribunal:

**R Mill (Legal Member)
M Links (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 19 September 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 19 September 2023 which required to the landlords:-
 1. To produce a current Electrical Installation Condition Report (EICR) from a SELECT, NICEIC or NAPIT accredited electrician

in respect of the property, containing no Category C1 or C2 items of disrepair.

2. To produce a Gas Safety Certificate from a registered Gas Safe engineer, for the property which refers to the provision for carbon monoxide detection and details the condition of the gas boiler and central heating radiators, confirming that the radiators are effective at heating the property.
 3. To install provision for smoke and heat detection in accordance with Scottish Government guidance.
 4. To repair or replace the electric focal point fire in the living room.
 5. To replace the integrated fridge freezer in the kitchen.
 6. To instruct a suitably qualified tradesman to replace the door handles and latch on the inner hallway door and rear bedroom and attend to any joinery work as a consequence.
 7. To instruct a suitably qualified tradesman to repair and replace, as required, the cracked, broken and loose floor tiles in both the kitchen and bathroom.
 8. To instruct a report from a suitably qualified roofing contractor to survey the whole roof, including the slates, chimney head to the gable end of the property, gutters, downpipes, other rainwater fixtures and fittings and the render to the chimney head and thereafter instruct the necessary works recommended to ensure that the property is wind and watertight.
 9. To instruct a report from a suitable specialist on the damp, mould and water ingress noted throughout the property and thereafter instruct the necessary works recommended to ensure that all damp is treated, eradicated and prevented in the future.
 10. To instruct a suitably qualified tradesman to treat and remove all mould within the property.
2. The landlords were provided with a period of 6 weeks to complete the works. Submissions and supporting documentation were provided to evidence that the landlords had undertaken some works but there were access problems. A reinspection and hearing had been arranged to take place on 13 February 2024 but was cancelled on the request of the tenant. The tenant subsequently vacated the property. On 20 February 2024 the tribunal varied the RSEO allowing the landlords until 19 April 2024 to complete the works.

3. On 14 April 2024 the landlords submitted further representations with documentary evidence.
4. The landlords are the only remaining active parties in these proceedings. The third party applicant withdrew their interest after bringing the proceedings before the tribunal. The tenant had an active interest until she vacated the property in February 2024.

Reinspection

5. The tribunal reinspected the property on Monday 22 April 2024 at 10.00 am. The property is vacant. The landlords intend to sell the property. The tribunal members were allowed access by Mr Craig Oliver. Reference is made to the attached reinspection report that the ordinary member of the tribunal has prepared based the condition of the property upon.

Hearing

6. The tribunal convened a hearing to consider the landlords compliance with the RSEO by teleconference at 2.30 pm on 22 April 2024. The only participant was Mr Craig Oliver. It was accepted by Mr Oliver that there remained two outstanding issues which he undertook to resolve and to provide documentary evidence of such within a few days.

Reasons

7. The following documents had been produced by the landlords in advance of the reinspection and hearing on 22 April 2024:-
 - a. An Electrical Installation Condition Report (EICR) prepared by Musselburgh Electrics Ltd dated 6 November 2023 which confirms that the installation is satisfactory no category C1 or C2 items of disrepair. (Two C3 category issues were noted).
 - b. A Gas Safety Certificate dated 5 November 2023 which evidences the satisfactory condition of the combi boiler in the kitchen. This notes that the engineer was unable to access the attic at the time to inspect the flue route and further notes that the engineer had been unable to see the pressure relief pipe termination.
 - c. An undated letter from RR Roofing Services Ltd confirming that work had been undertaken to secure loose, slipped and overhanging slates, including the provision of new slates where required, the removal of debris, foliage and weed growth from all gutters, valleys and watergates, and to secure loose ridges on hips and to replace felt soakers under the main ridges.

8. The tribunal noted at the time of their reinspection that the property had been freshly decorated and recarpeted for the purposes of being sold by the landlords.
9. Following the reinspection the tribunal were provided with an updated Gas Safety Certificate dated 23 April 2024 which confirms that the previously noted defects had been resolved and remedied. The tribunal were thus satisfied that the gas appliances and installation in the property is safe.
10. The tribunal noted at the time of their reinspection that whilst smoke detectors had been installed in the hallway and living room that these were not interlinked and, further, that no heat alarm had been installed in the kitchen. It was accepted on behalf of the landlords that this was not adequate to comply with the Scottish Government Guidance. Mr Oliver undertook to resolve the issue swiftly. The tribunal subsequently received documentary evidence, which comprised of a photograph evidencing that a heat alarm is now installed in the kitchen and a letter from a suitably qualified electrician that the heat and smoke alarms are all interlinked.
11. The tribunal noted at the time of their reinspection that the electric focal point fire in the living room had been removed. This is not required as a heat source in the room due to gas central heating. The integrated fridge/freezer in the kitchen had been replaced.
12. The tribunal noted at the time of their reinspection that all door handles and all previously missing door handles had been replaced.
13. The tribunal noted at the time of their reinspection that the cracked, broken and loose floor tiles in both the kitchen and bathroom had been repaired and/or replaced.
14. The tribunal had noted damp and mould within the property and had requested as part of the RSEO that a report from a suitably qualified specialist on the damp, mould and water ingress noted throughout the property be obtained. The landlords have not produced any formal report. It was noted, however, at the time of reinspection by the tribunal, that there was no active damp. It was noted from Mr Oliver that barriers to ventilation in the property due to the actions of the former tenant had been removed. It was noted at the time of the tribunal's inspection that there was no mould in the property which appeared adequately ventilated. There was no evidence of water ingress at the time of reinspection, notwithstanding the persistent wet weather conditions of late.

15. The tribunal was satisfied on the basis of the evidence of the condition of the property at the time of the reinspection on 22 April 2024 together with the documentary evidence produced was before and after that inspection that there were no outstanding issues arising from the RSEO. The tribunal was satisfied that all component parts of the RSEO have been completed by the landlords. The property now meets the repairing standard. The tribunal accordingly determined that the landlords have complied with the Repairing Standard Enforcement Order made on 19 September 2023 and that a Certificate of Completion should in these circumstances be issued.

Right of Appeal

16. 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.
17. 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 pages are executed by R Mill, solicitor,
legal member of the Tribunal at Edinburgh on 26 April
2024 before this witness:-

R Mill C McNaught