

Housing and Property Chamber First-tier Tribunal for Scotland



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

DECISION OF THE TRIBUNAL UNDER SECTION 26 OF THE HOUSING (SCOTLAND) ACT 2006

**RE: All and Whole the dwelling house known as 7 Glenacre Drive, Airdrie
ML6 8BS registered in the Land Register under title no LAN26930**

The Parties:

Jennifer Anderson, 7 Glenacre Drive, Airdrie ML6 8BS ("the Tenant")

**Lee Robert McFarlane Johnston, 10 Strone Place, Airdrie and LRJ Properties Ltd,
30 Oakbank Street, Airdrie ML6 8LE ("the Landlord")**

Reference number: FTS/HPC/RP/22/3733

Tribunal Members:

**John McHugh, Chairperson
Andrew McFarlane, Ordinary (Surveyor) Member**

DECISION

The Tribunal having carried out a further inspection of the House determined that the work required by the Repairing Standard Enforcement Order dated 3 February 2023 as varied ("the RSEO") had not been completed and resolved not to vary the Rent Relief Order ("RRO").

The decision of the Tribunal was unanimous.

Background

The RSEO required the Landlord to complete the following work within 31 days of service of the RSEO:

1 To carry out works so that the interior of the House is rendered reasonably free of penetrating dampness. Particular attention should be given to the rear bedroom on the first floor and the converted attic bedroom at the chimney breast.

2 To carry out repairs such that water does not leak from the bathroom to the kitchen below.

3 To provide a report from a suitably qualified electrician that the smoke and heat detectors fitted are interlinked and functioning correctly, and there are sufficient smoke alarms as required by the *Scottish Government Guidance for Private Landlords on Satisfactory Provision for Detecting and Warning of Fires*.

4 To carry out decorative remedial works after completing any repairs.

On 19 April 2023, the Tribunal re-inspected the House and found the works required by the RSEO to have been partially addressed. After further representations from the parties, on 17 May 2023, the Tribunal varied the RSEO to allow a further 21 days for completion of the works.

On 5 September 2023, the Tribunal carried out a further re-inspection of the House.

At the re-inspection the following was noted:

1. The area on the outer wall of the rear bedroom appeared to be dried out. Damp readings were still evident, but at a lower level than previously, on the chimney breast in the converted attic bedroom. No signs of work having been carried out to the chimney stack were noted, as a result of an inspection from ground level.

2. A shower screen has been installed on the bath to replace the previous curtain. Water was still evidently escaping under the screen onto the top of the boxing enclosing the bath. The tenant reported that water also escaped beyond the end of the screen. The ceiling below displayed low levels of dampness and the ceiling light has ceased working.

3. No report on the heat and smoke detectors was provided. The heat and smoke detectors were tested by the Tribunal and were found to be operational and interlinked.

4. No decorative works appear to have been undertaken.

The Tribunal determined that the RSEO has not been complied with and an RRO was made reducing the rent payable by 25%.

Reasons for the Decision

On 26 April 2024, the Tribunal carried out a further re-inspection of the House. The Tenant and Donna Fletcher of Aquila Letting, the Landlord's letting agent were present.

The Tribunal noted that:

1. The damp affected area on the outer wall of the rear bedroom had been previously considered to have been addressed. Damp readings were still evident on the chimney breast in the converted attic bedroom. No signs of work having been carried out to the chimney stack were noted, as a result of an inspection from ground level. The letting agent indicated that work had been carried out before their involvement. The only evidence of any work was remote from the area where the dampness was noted internally.
2. Work had been undertaken in the bathroom, as confirmed by the Tenant, and no evidence of current leakage was noted. The ceiling light in the Kitchen was operational again.
3. No report on the heat and smoke detectors was provided. The heat and smoke detectors were tested by the Tribunal and were found to be operational and interlinked.
4. Decorative remedial works have been undertaken in the kitchen to remedy the damage to the ceiling. No works have been carried out to the chimney breast in the converted attic bedroom.

The Tribunal's re-inspection report was issued to the parties and both have made representations in response. The Landlord considers that the works have been completed and the RRO should be removed. The Landlord has now provided written confirmation from the electrician who installed the fire detection devices. The Landlord has sent a painter to the House to paint the mould affected areas of the attic room but advises that the Tenant refused to allow the works to be carried out.

The Tenant considers that the works to the roof have not been carried out. Her view is that the carrying out of painting would not have been sensible until the underlying problem with the roof is resolved.

Representations have been received from the parties on other matters which are not concerned with the issues contained within the RSEO and so we have had no regard to those matters.

We consider that issues 2 and 3 of the RSEO have been addressed.

Issue 1 has not been addressed. There is no evidence that roof works have been completed at the chimney breast. Issue 4 has been addressed other than in relation to the attic room which in turn depends upon the completion of the works required by Issue 1. While we note that the Landlord had attempted to complete the attic works decoration after our re-inspection, we do not consider that of particular relevance because the decoration will require to follow after the works to prevent penetration of water leading to dampness at the chimney breast.

We consider that the RRO remains at an appropriate level having regard to the significant nature of the outstanding works and the ongoing restriction upon the Tenant's ability to use the attic room.

Right of Appeal

Section 64 of the Act provides a right of appeal to a party aggrieved by the decision of the Tribunal 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.

John McHugh
Chairperson

Date: 20 May 2024