

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Sections 26 and 28 (“the 2006 Act”)

Chamber Ref: FTS/HPC/RP/23/1477

**18 Speckled Wood Court, Dundee DD4 0LY
 (“The Property”)**

The Parties:-

**Miss Fay White, 18 Speckled Wood Court, Dundee DD4 0LY
 (“the Tenant”)**

**Fixrole Limited, 12 Milton Street, Dundee DD3 6QQ
 (“the Landlord”)**

Tribunal Members

Graham Harding (Legal Member)

Robert Buchan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’), unanimously determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order (“RSEO”) dated 9 March 2023. The Tribunal also determined it should make a Rent Relief Order. The Tribunal further determined that notice of the failure be served on the Local Authority in which the house is situated and to the Police Scotland for possible prosecution under the Act.

Background

1. Reference is made to the determination of the Tribunal dated 22 August 2023 which determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the 2006 Act in that it had failed to ensure that the property met the repairing standard. The Tribunal therefore imposed a RSEO. The works required by the RSEO were that the Landlord:-
 1. Provide a current Electrical Condition Installation Report (“EICR”) dated after the date of this order from a SELECT, NICEIC OR NAPIT registered electrician following a full inspection of the electrical installation and apparatus throughout the Property

confirming the installation and apparatus is fully functioning and meets current regulatory standards and containing no category C1 or C2 items of disrepair. The EICR should include specific reference to the provision for smoke and heat detection in accordance with existing Scottish Government guidelines.

2. Undertake any C3 recommended repairs mentioned in the foregoing EICR.
3. Repair or replace the broken and missing window handles in the kitchen and living room of the house so that they are in proper working order.
4. Replace the broken glazing in the window in the bathroom.
5. Repair or replace the missing and broken door and drawer fronts on the kitchen cabinets so that they are in a reasonable state of repair and in proper working order.
6. Re-instate the cupboard door in the smallest room so that it is in a reasonable state of repair and in proper working order.
7. Replace all broken pendant light fittings in the house.
8. Provide a report by a suitably qualified building surveyor who is a member of the Royal Institution of Chartered Surveyors commenting on the causes of staining and mould in the house and the measures required to remedy the defects.

The Tribunal required the works be completed within a period of eight weeks from the date of service of the RSEO.

2. On 30 January 2023 the Tribunal carried out a re-inspection of the property. Only the Tenant's partner and the Tenant's representative were present. The Tribunal established that no EICR had been produced; no repairs had been done to the windows or the kitchen cabinets or light fittings nor had they been replaced and no report by a suitably qualified building surveyor had been produced all as had been required in terms of the RSEO.
3. The findings of the re-inspection were issued to the Landlord and the Tenant's representative following the re-inspection.
4. The Tribunal received no written response to the Re-inspection report from the Landlord. By email dated 2 February 2024 the Applicant's representatives, Dundee Law Centre, submitted written representations to the Tribunal including an application that the Tribunal grant a rent Relief Order on the grounds that repairs had been outstanding for a long time; the Landlord had made no effort to repair or inspect the property; the Tenant could not use one bedroom; the bathroom window

was extremely dangerous and the property could not be ventilated properly. The Tenant's representative submitted that a 90% reduction in rent was appropriate as the property was unsafe and uninhabitable and the Tenant's children could not use any room in the house safely.

Reasons for Decision

5. The Landlord has failed to comply with the terms of the RSEO. The Landlord has failed to engage with the Tribunal throughout the whole course of the determination of the application.
6. The Landlord has been given every opportunity to participate in the proceedings and has offered no explanation as to why it has not.
7. The Tribunal therefore determines that the Landlord has failed to comply with the terms of the RSEO.
8. The Tribunal further determined that in the circumstances given that virtually all of property is affected by the Landlord's failure to meet the repairing standard and given the adverse effect this had on the Tenant's enjoyment and use of the property that it was appropriate to make a Rent Relief Order restricting the rent by 90% until such time as the Landlord complied with the terms of the RSEO.
9. The decision of the Tribunal was unanimous.

Right of Appeal

1. **A landlord or tenant aggrieved by the decision of the Tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**
2. **Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

G Harding

Signed: Graham Harding

Date: 15 February 2024

Chairperson