

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 Section 24 (1)

Chamber Ref: FTS/HPC/RT/22/1795

Flat 3/2, 1 Canning Street, Dundee, DD3 7RZ (“The Property”)

The Parties:-

Mrs Linda Etchels residing at Flat 3/2, 1 Canning Street, Dundee, DD3 7RZ (“the Tenant”)

Mr Shadman Khan residing at 26 Menzieshill Road, DD2 1PU (“the Landlord”)

Dundee City Council Private Sector Services Unit, 5 City Square, Dundee, DD1 3BA (“the Applicant”)

Decision

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 had complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, determined that all the work required by the RSEO had now been carried out and that the Landlord had now complied with the duty imposed by Section 14(1)(b) of the Act. Accordingly the Tribunal resolved to issue a Certificate of Completion in relation to the RSEO previously imposed.

Background

- 1. In June 2022, the Applicant, on behalf of the Tenant, applied to the Housing and Property Chamber for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).**
- 2. On 10 January 2023, following an inspection and hearing the Tribunal issued a Repairing Standard Enforcement Order (“RSEO”) against the Property as the Property had not met the standard required by the Act. The RSEO required the Landlord to:**

a) to produce an Electrical Installation Condition Report from a suitably qualified electrician registered with SELECT, NICEIC or NAPIT in clear terms with no outstanding items marked C1 or C2 and generally to ensure that all electrical fittings and fixtures within the Property are in working order and meet the repairing standard;

(b) to replace the kitchen units within the Property and to ensure, whilst doing so, that the kitchen sink and associated drainage pipes are in proper working order and meet the repairing standard;

(c) to redecorate the area in the living room ceiling/walls where repair works have previously taken place;

(d) to investigate the source of damp/water ingress to the rear living room wall and to carry out such works as are necessary to stop further damp/water ingress. Thereafter to carry out any redecoration works rendered necessary by the works

(e) to carry out such works of repair or replacement to the lounge and main bedroom windows and sills to render them properly wind and watertight, capable of opening and closing properly and generally compliant with the repairing standard;

(f) to install a new external door to the Property exiting on to the communal stairway and to ensure that it is properly wind and watertight, meets the relevant building and fire regulations and otherwise meets the repairing standard;

(g) to install a new toilet seat to the toilet at the Property; and

(h) to replace the sealant around the shower in the shower room of the Property

3. Following the issue of the RSEO, the Tribunal had arranged to reinspect the Property on 31 May 2023. The Tribunal was again comprised by Mr E K Miller, Chairman and Legal Member and Ms C Jones, Ordinary Member & Surveyor. At the re-inspection the Applicant was represented by Mr Stuart Cuthill of Dundee City Council. Mr Khan, the Landlord was present and was accompanied by his sister. The Tenant, Mrs Etchels, was present as was her husband.
4. Following the issue of the re-inspection report to the parties, the Landlord requested a hearing. The hearing was arranged for 2 August 2023 again before Mr Miller and Ms Jones of the Tribunal. Mr Cuthill attended for the Applicant. The Tenant was not present. The Landlord and his sister again attended.
5. The Tribunal had considered each of the repair items required by the RSEO (and listed at Paragraph 2 above) in light of the evidence obtained at the re-

inspection and subsequent hearing and from various pieces of evidence in the form of reports and invoices provided to the Tribunal office.

6. The Tribunal had first considered the requirement to provide a clear EICR as set out at Para 2(a). The Tribunal was not satisfied with the EICR that had been initially provided by the Landlord as the contractor did not appear to be registered and the EICR had not been properly completed. On 1 August 2023, the Landlord had emailed to the Tribunal a new EICR. This was by a registered contractor and had been properly completed and was in satisfactory terms. Accordingly, the Tribunal was now satisfied that this aspect of the RSEO had been complied with.
7. The Tribunal had then considered the required repairs to the kitchen units and sink/drainage (Paras 2(b)). It was apparent at the re-inspection that new, modern units had been installed by the Landlord and that the drainage under the sink had been repaired. The Tenant confirmed the works had been done and were to their satisfaction. Accordingly, the Tribunal was now satisfied that these aspects of the RSEO had also been complied with.
8. The Tribunal had then considered the points set out at Para 2(c) and (d) above. It was apparent at the re-inspection that the redecoration works had been carried out. In relation to the underlying repair works, the Landlord was unclear as to what exactly had been done by their tradesperson. The Tenant was unable to provide much information in this regard also, although it seemed to be accepted that a roofer had visited. There was some moisture remaining in the area although it was more localized than was previously the case. Subsequent to the re-inspection, the Landlord provided evidence from ALX Roofing that they had attended at the Property and had carried out roof repairs to prevent any further water ingress occurring. ALX were known to Mr Miller of the Tribunal as a reputable local company and this gave the Tribunal some comfort that the works had been carried out to an appropriate standard. The moisture levels were reduced (and the surfaces may simply have been drying out still at the date of the re-inspection) and repair and redecoration works had been carried out. On balance, the Tribunal was therefore satisfied that these aspects of the RSEO had now been complied with.
9. The Tribunal had then considered the position in relation to the windows at the Property (Para 2(e)). At the date of the re-inspection, the windows had not been replaced or works carried out. However, the Landlord at the re-inspection, was able to provide evidence that replacement windows were on order and would be replaced. Subsequent to the re-inspection, the Landlord provided pictorial evidence that the new windows had been installed. The Tribunal was able to recognize from the images that these were of the Property and it was clear new, modern double glazed units had been installed. On that basis, the Tribunal was satisfied that this aspect of the RSEO had also been met.
10. The Tribunal had then considered the position in relation to the external door of the Property that exited on to the communal close (Para 2(f)). The

Landlord had replaced this with a new FP30 fire door. The Tribunal had some concerns at the re-inspection and the subsequent hearing that this was not sufficient and that an FP60 fire rated door ought to have been installed due to the height of the larger building. However, after subsequent consideration of the relevant technical standard, the Tribunal was satisfied that whilst an FP60 door would be beneficial, an FP30 door did meet the relevant standards. The Tribunal did, however, have some residual concerns regarding the door in that the frame was in poor condition and, as a result the door did not fit particularly well. The frame and door also lacked the required intumescent strips. In the event of a fire these strips expand and block both smoke and fire from spreading so easily. Given the lack of the strips combined with the poor nature of the frame, the Tribunal were unable to confirm that the door/frame met the required standard. The Landlord would require to carry out further works to ensure that the door fitted properly in the frame sufficient that when combined with the installation of the intumescent strips that a proper seal would occur in the event of a fire.

11. Lastly, the Tribunal considered Paras 2(g) and (h) above. It was apparent at the re-inspection that a new toilet seat had been installed and that sealant had been installed around the shower. Accordingly, the Tribunal was satisfied that these elements of the RSEO had been complied with.
12. The Tribunal had issued a decision to the parties in December 2023 setting out that the only outstanding item in relation to the RSEO was to ensure that the external door fitted properly in the frame sufficient that when combined with the installation of the intumescent strips that a proper seal would occur in the event of a fire.
13. Following the issue of the Decision of December 2023, the Landlord replied on 26 April 2024 to say that he had now completed the works. He provided pictorial evidence showing a new door frame with new intumescent strips. It appeared from the pictures that the door fitted in to the frame properly. The Tribunal administration passed the pictorial evidence on to the Applicant and the Tenant and asked them for any comment. None was forthcoming.
14. The Tribunal considered this additional evidence submitted by the Landlord. The tribunal was satisfied from the evidence before it that the last minor works in relation to the door had been carried out. There was no objection from the Applicant or the Tenant that these last works had not been carried out. On that basis the Tribunal was satisfied that all matters had been satisfactorily dealt with.

Summary & Decision

15. In summary, the Tribunal was satisfied that all work had now been dealt with that were required by the RSEO
16. The Tribunal accordingly determined that the Landlords had now complied with the duty imposed by Section 14 (1)(b) of the Act and that the Property

met the repairing standard. The Tribunal resolved to issue a Certificate of Completion discharging the RSEO.

17. The decision of the Tribunal was unanimous.

Right of Appeal

18. 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.

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.

Effect of section 63

19. 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.

Ewan Miller

Signed Chairperson

Date 3 July 2024