



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Section 26 of the Housing (Scotland) Act 2006

Reference number: FTS/HPC/RP/23/0116

Re: Property at 7 Ledi Road, Mansewood, Glasgow G43 2BJ (Registered in the Land Register of Scotland under title number GLA237454) (“Property”)

The Parties:

John Lawrence Anunobi, 7 Ledi Road, Mansewood, Glasgow G43 2BJ (“Tenant”)

Govan Law Centre, Orkney Street Enterprise Centre, 18-20 Orkney Street, Glasgow G51 2BX (“Tenant’s Representative”)

George Ford, 66 Priorwood Road, Newton Mearns, Glasgow G77 6ZZ and Helen Flannagan, 9 Ledi Road, Manswood, Glasgow (“Landlord”)

Joan Devine (Legal Member); Nick Allan (Ordinary Member)

DECISION

The Tribunal determined that the Landlord has failed to comply with the Repairing Standard Enforcement Order dated 13 April 2023 (“RSEO”) within the period of time set out in the RSEO. Notice of the failure will be served on the local authority. The Tribunal also determined to make a rent Relief Order. The Tribunal’s decision is unanimous.

Background

The Tribunal issued a decision dated 13 April 2023 requiring the Landlord to comply with the RSEO relative to the Property issued by the Tribunal on the same date. The RSEO required the Landlord to:

1. Deliver to the Tribunal for approval a specialist report from a suitably qualified surveyor or damp specialist to address the cause of the dampness issues in the living room and conservatory and recommend specified works to be undertaken to resolve the dampness issues within the Property in order to make the Property wind and watertight and comply with the repairing standard.
2. Once a satisfactory report has been approved by the Tribunal, to carry out such work as is recommended in terms of the report provided the Tribunal confirm their approval of the works specified.

The Tribunal ordered that the works specified in the order must be carried out and completed within the period of 8 weeks from the date of service of the RSEO.

On 22 August 2023 the Respondent's Representative lodged a report from Peter Cox dated 22 August 2023 ("Report"). The Report stated that it had been limited to the areas indicated by those instructing the Report. On the third page of the Report Peter Cox reported readings for relative humidity, room temperature, dew point temperature and external wall temperature. The Report did not address the cause of the dampness or recommend any works to resolve the dampness. The Tribunal asked to have sight of the instruction to Peter Cox. That was provided on 29 August 2023.

A re-inspection of the Property was carried out on 7 September 2023. The Tribunal noted the continued presence of embedded dampness within the wall between the living room and under stair cupboard as well as the continued presence of embedded dampness at window sill height at both sides of the bay window in the living room. The Tribunal also noted the continued presence of embedded dampness within the wall section to the left of the conservatory door to the garden. The Tribunal recorded readings for temperature, relative humidity and air quality. The re-inspection report was issued to the Parties and comments were invited within 14 days. The Applicant's Representative lodged a written representation on 20 September 2023 in which they submitted that there had been a failure to comply with the RSEO and sought a rent relief order of 90%. The Applicant did not lodge a response to the reinspection report.

Reasons for Decision

The Tribunal unanimously determined that the Landlord has failed to comply with the RSEO within the period of time for completion of the works set out in the RSEO. The Tribunal is aware that the Landlord has sought to comply with the RSEO by instructing the Report. Unfortunately the Report falls short of what was required by the RSEO. The Tribunal determined to make a rent relief order in terms of section 27 of the Housing (Scotland) Act 2006. The amount by which the rent should be reduced is a matter for the discretion of the Tribunal. The Tribunal noted that the existence of damp in the Property does not prevent the Tenant from using any part of the Property. The damp is confined to specific parts of the Property. The Tribunal is however aware of the detrimental impact damp can have on the health of those residing in a property. The Tribunal determined that a reduction of rent in the sum of 20% would be reasonable and proportionate. The rent relief order will be effective from 28 days after the last date on which a request may be made for permission to appeal this decision.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

J Devine

Legal Member
2 October 2023