

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 25(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/23/3809

8 Milldown Place, Bourtreehill South, Irvine, KA11 1EF being the subjects registered in the Land Register of Scotland under Title Number AYR33720 (“the Property”)

The Parties:-

Adelle de Wet residing at 8 Milldown Place, Bourtreehill South, Irvine, KA11 1EF (“The Tenant”)

Mrs Andrea Gibson, CHAP, 71 Princes Street, Ardrossan, KA22 8DG (‘The Tenant’s Representative’)

Thomas and Alison Maitland residing at Braehead Farm, Irvine, KA11 1EF (“The Landlords”)

Tribunal Members:

Jacqui Taylor (Chairperson) and Donald Wooley (Ordinary Member)

1. Background

1.1 The Tribunal issued a Repairing Standard Enforcement Order dated 27th February 2024 (‘RSEO’) in respect of the Property which required the Landlord to:-

ONE. Exhibit a valid and compliant EICR Certificate.

TWO. Exhibit a valid and compliant Landlords’ Gas Safety Certificate.

THREE. Instruct a competent and “Gas Safe” registered engineer to inspect the boiler and surrounding pipework, identify the source of the water leak below the boiler and complete any necessary remedial action, ensuring it is in a reasonable state of repair and in proper working order.

The Tribunal ordered that these works must be carried out and completed by 30th March 2024.

2. The First Direction.

The Tribunal issued a Direction dated 14th February 2024. The Landlords were directed to provide the Tribunal with:

ONE. A valid and complaint Electrical Installation Condition Report and

TWO. A valid and compliant Landlords' Gas Safety Certificate.

The Tribunal ordered that the information requested should be provided no later than close of business on 20th February 2024.

3. Response to the First Direction.

The Landlord provided the Tribunal with a copy of the Landlord/homeowner Gas Safety Record dated 5 January 2024. This assessed the gas installation pipework as "Satisfactory". The Landlord also provided the Tribunal with page 1 of an Electrical Installation Condition Report (EICR) without the accompanying schedules.

4. The Second Direction.

The Tribunal issued a second Direction dated 3rd April 2024. The Landlords were directed to provide the Tribunal with a complete copy of the Electrical Installation Condition Report dated 29th August 2022, including the Schedule no later than close of business on 21st April 2024.

5. Response to the Second Direction.

The Landlord did not provide the Tribunal with a complete copy of the Electrical Installation Condition Report dated 29th August 2022, including the Schedule, as directed.

6. Inspection and Reinspection Report.

The Tribunal, attended at the Property at 10.00 am on 20th May 2024. The reinspection report is attached as a Schedule to this Decision.

As detailed in the reinspection report, at the inspection the Tribunal observed that there was no evidence of any leakage at or around the wall mounted boiler in the kitchen.

The parties were sent a copy of the Reinspection report by the Tribunal administration by email dated 22nd May 2024 and invited the parties to provide the Tribunal with any comments they wished to provide on the reinspection report, confirmation as to whether they wished a hearing and any representations on whether they considered a Rent Relief Order should be made.

The Tenant's representative sent the Tribunal an email dated 28th May 2024 which confirmed that they agreed with the reinspection report and advised that they did not wish to attend a hearing, provide submissions or request a rent relief order.

The Landlord did not provide the Tribunal with any response to the reinspection report.

7. Decision and Reasons

7.1 The Tribunal are satisfied that the following items of the RSEO (Items Two and Three) have been completed satisfactorily, and vary the RSEO such that items Two and Three are delete. Items Two and Three are as follows:

TWO. Exhibit a valid and compliant Landlords' Gas Safety Certificate.

THREE. Instruct a competent and "Gas Safe" registered engineer to inspect the boiler and surrounding pipework, identify the source of the water leak below the boiler and complete any necessary remedial action, ensuring it is in a reasonable state of repair and in proper working order.

7.2 As the Landlord has not provided the Tribunal with the required complete copy of the Electrical Installation Condition Report dated 29th August 2022, including the Schedule, the Tribunal determine that item One of the RSEO has not been complied with. Item One is as follows:

ONE. Exhibit a valid and compliant EICR Certificate.

7.3 Therefore, the Tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlords have complied with the Repairing Standard Enforcement Order in relation to the Property determine that the said has failed to comply with item ONE of the RSEO in terms of section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the Property is situated.

8. As the Tenant did not request a Rent Relief Order the Tribunal did not proceed to consider if a Rent Relief Order should be made.

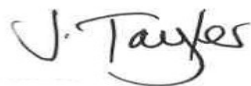
9. The decision of the Tribunal was unanimous.

10. Appeals

A landlord, tenant or third party applicant 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.

Signed
Chairperson



Date June 2024