

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 26

Reference number: FTS/HPC/RT/23/2723

Re: Property at 11 Oxgangs House, Edinburgh, EH13 9HE (“the Property”)

Title Number: MID99515

The Parties:

The City of Edinburgh Council, Housing and Regulatory Services, G1 Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG (“The applicant”)

Mr Mohammed Abrar, residing at 143 Glasgow Road, East Kilbride, South Lanarkshire G74 4QA (“the Landlord”)

Interested Party:

Jessica Brandon, residing at 11 Oxgangs House, Edinburgh, EH13 9HE (“the Tenant”)

Tribunal Members:

Paul Doyle (Legal Member)

Greig Adams (Surveyor Member)

Unanimous Decision of the Tribunal

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’) finds that the landlord has failed to comply with the Repairing Standard Order made on 22 January 2024 and declines to certify that the work required by the Repairing Standard Enforcement Order relative to the Property made on 24 January 2024 has been completed. Accordingly, the said Repairing Standard Enforcement Order remains in place.

Background

(1) On 24 January 2024 the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) issued a decision requiring the Landlord to comply with the repairing standard enforcement order (“RSEO”) made by the tribunal on 24 January 2024. The tribunal reinspected the property on 16 May 2024.

(2) The Repairing Standard Enforcement Order (“RSEO”) required the Landlord to

(a) Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire electrical installation in the property and all electrical appliances and equipment supplied by the landlord and carry out all necessary remedial works to rectify any identified C1 and C2 categorised areas. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with satisfactory EICR and PAT test certificates prepared by a suitably qualified SELECT, NICEIC or NAPIT registered contractor.

(b) replace the laminate flooring with new correctly laid laminate flooring in the landing and both bedrooms on the upper floor of the property.

All within 28 days.

Re-inspection

(3) On 16 May 2024 tribunal members reinspected the property. During the inspection, the surveyor member took photographs, which form part of the reinspection report attached to this decision.

(4) The landlord, the applicant, and the tenants were all present during the reinspection.

(5) On 16 March 2024 the landlord exhibited a satisfactory EICR dated 12 September 2022, but no PAT test certification has been exhibited. The landlord has previously suggested that he has not provided portable electrical appliances, but the landlord accepts that he provided portable convector heaters.

(6) On re-inspection, it was obvious to tribunal members that no repairs have been carried out to the laminate flooring.

(7) Immediately after the inspection, and outwith the presence of the applicant and the tenants, the landlord tried to engage tribunal members in conversation. Tribunal members refused to speak to the landlord, other than to try to explain the independence and impartiality of the tribunal.

(8) In an email dated 15 May 2024, the landlord said

I would like to submit another piece of evidence to be taken in consideration before the hearing on the 16th of May for the tribunal case.

Another reason why I haven't repaired the laminate flooring in the room in question is because I have paid a total sum of £440 in the form of rent deduction for the tenants (in the month, March 2023) to purchase and install carpets in the staircase, upstairs hallway, master bedroom and ensuite bedroom. I have Not seen any evidence of the carpets except for a receipt provided by Jamie (attached) showing the purchase of a carpet intended for the staircase and upstairs hallway.

This was decided not to be installed since I had notified the tenants that the property will be sold although nothing was returned to me, neither the carpet or the remaining funds.

I have explained to the tenants that since they have purchased a carpet that has been paid for by me then it should be installed in the room in question (as it is large enough) to replace the chipped laminate, otherwise the carpet and the remaining money should be refunded back to me.

This is further evidence of the tenants withholding funds without justification from me and eventually not paying any rent at all since January which has prevented me from undertaking any work.

I hope all of these points will be taken into consideration at the hearing.

(9) For the avoidance of doubt, there has not been a hearing since 15 January 2024. On 16 May 2024 tribunal member's jurisdiction extended to a re-inspection only.

(10) The landlord accepts that less than half of the requirements by the RSEO have been met.

(11) The landlord must complete the following works before a certificate of completion can be issued

(a) provide the First-tier Tribunal for Scotland (HPC) with satisfactory PAT test certificates prepared by a suitably qualified SELECT, NICEIC or NAPIT registered contractor.

(b) replace the laminate flooring with new correctly laid laminate flooring in the landing and both bedrooms on the upper floor of the property.

(12) It is in the tenants' interest to allow the landlord and his tradesmen access to carry out the outstanding repairs.

(13) It is in the Landlord's interest to instruct tradesmen to carry out the repairs (without delay) rather than try to carry out the repairs himself.

(14) There is already a Rent Restriction Order affecting the tenancy of this property (FTS/HPC/RT/23/2255) made on 9 February 2024.

DECISION

(15) The only conclusion that the Tribunal can come to is that the works required by the RSEO have not been completed. The tribunal therefore refuse to issue a certificate of completion of works in terms of s. 60 of the Housing (Scotland) Act 2006 because the landlord has failed to comply with the RSEO made on 22 January 2024.

Right of Appeal

(16) 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.

(17) 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.

P Doyle

Signed
Legal Member

5 July 2024

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Inspection Report

Chamber Ref: FTS/HPC/RT/23/2723



Property: 11 Oxgangs House, Oxgangs Grove, Edinburgh EH13 9HE (“The Property”)

Title No: MID99515

THE PARTIES:

The City of Edinburgh Council, Housing and Regulatory Services, G1 Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG (“The applicant”)

Mr Mohammed Abrar, residing at 143 Glasgow Road, East Kilbride, South Lanarkshire G74 4QA (“the Landlord”)

Interested Party:

Jessica Brandon residing together at 11 Oxgangs House, Edinburgh, EH13 9HE (“the Tenant”)

THE TRIBUNAL:

Tribunal members: Paul Doyle (Legal Member/Chair) and Greig Adams (Ordinary/surveyor Member)

Background:

On 22 January 2024, the First-tier Tribunal for Scotland Housing and Property Chamber) issued a Repairing Standard Enforcement Order (“the Order”) in respect of the Property. The Order required the Landlord to:-



- (a) Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire electrical installation in the property and all electrical appliances and equipment supplied by the Landlord and carry out all necessary remedial works to rectify any identified C1 and C2 categorised areas. Thereafter to provide the First-Tier Tribunal for Scotland with satisfactory EICR and PAT test certificates prepared by a suitably qualified SELECT, NICEIC or NAPIT registered contractor.
- (b) Replace the laminate flooring with new correctly laid laminate flooring in the landing and bedrooms on the upper floor of the property.

Access:

The inspection was undertaken on 16 May 2024 by the Tribunal Members. The inspection extended to an inspection of the outstanding items detailed within the RSEO.

Purpose of Re-inspection:

The purpose of the re-inspection was to investigate whether the outstanding work required under the Repairing Standard Enforcement Order has been completed.

The inspection:

Our re-inspection found:

- (a) An Electrical Installation Condition Report (EICR) has been provided to the Tribunal prepared by BFE Electrical Ltd showing a “satisfactory” summary of the condition of the electrical installations. No PAT test certification has been provided to date and remains outstanding.
- (b) The laminate flooring has not been replaced and remained in the poor condition previously reported by the Tribunal.

Greig Adams BSc (Hons) FRICS C. Build E FCABE LETAPAEWE
Surveyor Member
First-tier Tribunal for Scotland (Housing and Property Chamber)



Appendix A – Photographic Record



1 External elevation.



2 EICR test label.



3 Electric meter.



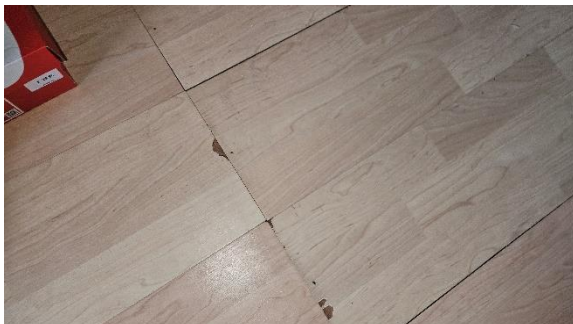
4 Example photograph of laminate flooring – Hall.



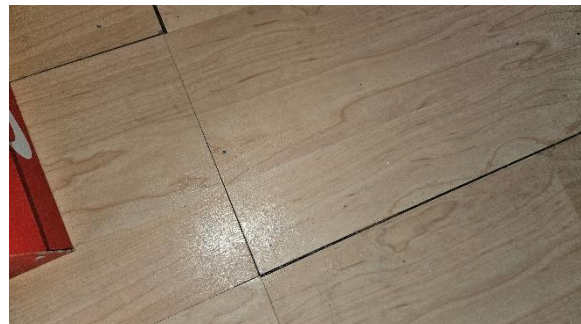
5 Example photograph of laminate flooring – Bedroom 1.



6 Example photograph of laminate flooring – Bedroom 1.



7 Example photograph of laminate flooring – Bedroom 1.



8 Example photograph of laminate flooring – Bedroom 1.



9 Example photograph of laminate flooring.



10 Example photograph of laminate flooring.



11 Example photograph of laminate flooring.



12 Example photograph of laminate flooring.



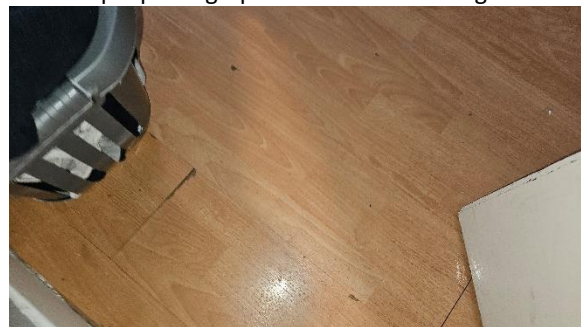
13 Example photograph of laminate flooring - Hall.



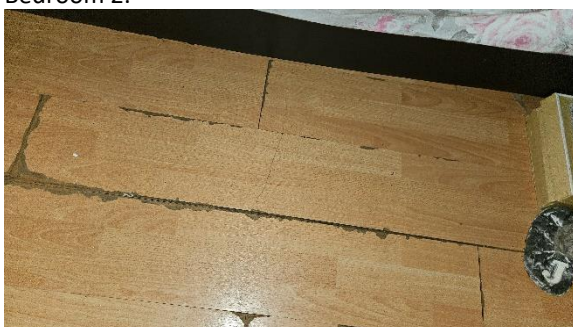
14 Example photograph of laminate flooring - Hall.



15 Example photograph of laminate flooring –
Bedroom 2.



16 Example photograph of laminate flooring –
Bedroom 2.



17 Example photograph of laminate flooring –
Bedroom 2.



18 Example photograph of laminate flooring –
Bedroom 2.



19 Example photograph of laminate flooring –
Bedroom 2.