

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 26(1) of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22(1A) of the Act

Chamber Ref: FTS/HPC/RT/23/2735

Re: Property at Flat 0/1, 12, Riccarton Street, Glasgow, G42 7NX registered in the Registers of Scotland under Title Number GLA96564 (“the Property”)

The Parties:

Glasgow City Council, Neighbourhood, Regeneration and Sustainability Services, 231, George Street, Glasgow, G1 1RX (“the Third-party Applicant”)

Mr. James O’Donnell residing at the Property (“the Tenant”)

And

Ms. Subajini Thileepan, residing at 1C, Whitelaw Road, Dunfermline, Fife, KY11 4RN (“the Landlord”) per her agents, Gorrie & Davidson, Solicitors, 26, Viewfield Terrace, Dunfermline, Fife, KY12 7LB (“the Landlord’s Agents”)

Tribunal Members:

Karen Moore (Chairperson) and Kingsley Bruce (Ordinary and Surveyor Member)

Decision

The Tribunal, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order (RSEO), determined that it cannot be satisfied and so determines that the Landlord has failed to comply.

In addition, the Tribunal imposes a Rent Relief Order of **40%** of the monthly rent from the date 30 days from the date on which this Decision was sent to the Parties until the RSEO is revoked or discharged.

Background

1. By application received between 10 August 2023 and 11 September 2023 (“the Application”), the Third-party Applicant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on her by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Section 13(1)(a) and Section 13(1) (d) of the Act.

2. Following an Inspection of the Property and a Hearing on 11 January 2024, the Tribunal imposed the following RSEO:

“The Landlord must on or before 28 March 2024 carry out all of the following:-

- 1. Install electrical mains supplied, inter-connected hard wired or, wireless long life battery, smoke and heat detectors within the Property in accordance with current Scottish Government regulations for residential property;*
- 2. Renew or repair the front door and surrounds of the Property so that the front door fits the doorway and is capable of providing adequate security;*
- 3. Repair or renew the defective flooring in the living room to ensure that it is free from trip hazards;*
- 4. Repair or replace the washing machine and the cooker so that both are fully functional and not in a state of disrepair;*
- 5. Engage a suitably qualified window contractor to repair or replace all windows in the Property to ensure that the windows are wind and watertight, are in proper working order and are capable of opening and closing securely and safely, to include all necessary new ironmongery and draught proofing to ensure that the Property is capable of being properly ventilated;*
- 6. Reglaze the kitchen window;*
- 7. Produce a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category and, where applicable, the outcome in respect of the individual areas should be appropriately marked with a “tick” if in an acceptable condition.*
- 8. Produce a current Portable Appliance Test Certificate for the Landlord’s appliances in the Property. The Certificate requires to be prepared by an*

electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme and should confirm that all such appliances are safe to use.

9. *Make good all décor disturbed as a result of these works.”*

Re-inspection and Hearing

3. A Re-inspection of the Property and a Hearing by telephone were fixed for 30 August 2024 at 10.00 and 11.45 respectively. Prior to the Re-inspection the Landlord's Agents submitted emails advising that the Tenant was refusing access and so the Landlord could not access the Property to carry out repairs. Also, prior to the Re-inspection, the Tenant submitted emails advising that some of the repairs had been arranged.
4. The Re-inspection of the Property took place on 30 August 2024 10.00 a.m. The Third-party Applicant was not present. The Landlord was not present and was not represented. The Tenant was present as an observer.
5. At the Re-inspection the Tribunal noted that some, but not all, of the work required by the RSEO had been carried out by the Landlord.
6. A Hearing was held by telephone conference call on 30 August 2024 at 11.45. The Third-party Applicant was not present. The Landlord was not present and was not represented.

Findings of Fact

7. The Tribunal's findings in fact were made from all of the information before it being the Application, the Inspection and Hearing on 11 January 2024 and the Re-inspection and Hearing on 30 August 2024.
8. The Tribunal found the following matters established: -
 - i) There is no heat detector and the smoke detectors ,although replaced, are not interlinked and so do not meet with current Scottish Government regulations for residential properties;
 - ii) The washing machine, as demonstrated by tenant, still does not operate properly;
 - iii) The cooker and the cooker plate have been renewed;;
 - iv) The windows throughout the Property have not been repaired or replaced and the kitchen window had not been re-glazed;

- v) The front door has not been renewed and a repair to the internal part of the door does not fully address the gaps at the frame and surround;
- vi) The flooring in the living room flooring has been replaced;
- vii) The living room and kitchen lights have been replaced;
- viii) No Electrical Installation Condition Certificate nor a Portable Appliance Certificate has been produced.

Summary of the Issues

9. The issues to be determined by the Tribunal are whether or not the Landlord has complied with the RSEO in full or in part and if it should vary or revoke the RSEO or if it should make a finding of failure to comply with the RSEO.

Decision of the Tribunal and Reasons for the Decision of the Tribunal

10. The Tribunal had regard to Section 25 (1) of the Act which states:-“(1) *The first-tier tribunal which made a repairing standard enforcement order may, at any time (a) vary the order in such manner as they consider reasonable, or (b) where they consider that the work required by the order is no longer necessary, revoke it.*”
11. The Tribunal had regard to the emails submitted by the Landlord’s Agents. The Tribunal noted that, although one of the emails asked that the RSEO be varied or revoked, no indication was given in respect of when the Landlord might comply with the RSEO. Although, the emails submitted by the Landlord’s Agents advised that no access had been given by the Tenant, the fact that work had been carried out evidences that this is not the case. In any event, it did not appear that the Landlord had made an application for a Right of Entry Order.
12. With regard to Section 25(1)(b), the Tribunal gave consideration to whether it should revoke the RSEO. The terms of the RSEO deal with health and safety. The Tribunal held the view that safeguarding any occupants of the Property is of paramount importance. Accordingly, the Tribunal was not of a mind to revoke the RSEO.
13. With regard to Section 25(1)(a), and whether it should vary the RSEO and allow further time for the Landlord to comply. The Tribunal, being satisfied that the Landlord had had notification of the Inspection and Hearing, the RSEO and the Re-Inspection and Hearing and the RSEO, took the view that the Landlord was ignoring these to the extent that she had no intention of complying fully with the RSEO and so determined that there was no reason to vary the RSEO and allow further time for the Landlord to comply.

E Munroe

Signed

K Moore

Karen Moore, Chairperson

Date 30 August 2024