



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/23/3455

Re: Property at 26 Rosewood Avenue, Bellshill ML4 1NR (registered under title number LAN11008) (“Property”)

The Parties:

Kirsteen Maitland, 26 Rosewood Avenue, Bellshill ML4 1NR (“Tenant”)

Coatbridge CAB, Unit 10 Fountain business Centre, Ellis Street, Coatbridge ML5 3AA (“Tenant’s Representative”)

Mohsin Haq, 1 Marquis Gate, Glasgow G71 7HY (“Landlord”)

Tribunal Members :

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 12 February 2024 (“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 12 February 2024 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. Appoint a suitably qualified contractor to replace the skylight window in the bathroom and ensure that the bathroom is wind and watertight.
2. Appoint a suitably qualified contractor to install a ventilation system in the bathroom.
3. Remove the mould in the bathroom and redecorate throughout.

4. Repair or replace the front door in order that the deadlock locking mechanism is functioning properly and the door can be opened and closed as well as to ensure there is draft exclusion provision in the letterbox.
5. Repair or replace the locking mechanism on the back door to ensure the door can be opened and closed.
6. Remove the redundant and broken light fitting in the ground floor hall under the stairs.
7. Replace the light switch in the ground floor hall beside the front door with a modern unit that meets current Scottish Government guidelines.
8. Carry out necessary works to cover over and make safe the exposed wiring in the kitchen behind the microwave.
9. Secure the socket under the sink in the kitchen to a wall surface in accordance with current Scottish Government guidelines.
10. Investigate and make safe the socket on the left hand wall in the kitchen which has a rogue wire protruding.
11. Remove all exposed wires in the kitchen ceiling and make safe. Cover over the holes in the kitchen ceiling, make good and decorate the ceiling.
12. Replace the plastic panel in the kitchen door with appropriate safety glass.
13. Replace the roof structure, roof covering and fascias together with the door of the garage. Remove bossed roughcast, and re-render. Re-render exposed brickwork and weather-proof complete garage.
14. Provide a copy of a current Electrical Installation Condition Report ("EICR") from a SELECT, NICEIC OR NAPIT accredited electrician following a full inspection of the electrical installation and apparatus throughout the Property confirming the installation and apparatus is satisfactory, fully functioning, meets current regulatory standards and containing no category C1 or C2 items of disrepair.

The Tribunal ordered that the works specified in the order must be carried out and completed within the period of 10 weeks from the date of service of the RSEO.

Reinspection and Hearing

A re-inspection of the Property was carried out on 12 August 2024 and was followed by a Hearing at Glasgow Tribunals Centre. The Tenant and Molly Ferguson were present at the reinspection as was the Landlord. The Landlord attended the Hearing as did Jim Melvin of the Tenant's Representative.

The Tribunal reviewed the works listed in the RSEO and noted that items 4, 5, 6, 7, 8, 9 and 10 had been completed and that item 11 had been partially completed although the kitchen ceiling had not been decorated following the works.

As regards item 12 (replace plastic panel in kitchen door), the Landlord said that the work had been instructed but the contractors were very busy and a date had not yet been fixed. He said both internal doors in the kitchen were to be replaced.

As regards item 14 (provision of a current EICR), the Landlord said that there was a current EICR for the Property and that he would send a copy to the Tribunal.

As regards items 1, 2 and 3 (which related to the bathroom) the Tribunal noted that the work remained outstanding. The Landlord said that the work had been instructed but the contractors were very busy. He said that a velux window had been ordered but when it arrived it was the wrong size. He said there was no point in removing the mould until the new skylight window was fitted. He said that the new window would have a mechanism to allow it to be opened to provide ventilation.

As regards item 13 (garage), the Landlord said that the work had been instructed but the contractors were very busy and a date had not yet been fixed. The Landlord said that the contractors would clear the garage. The Tribunal asked the Landlord what works specifically had been instructed for the garage. The Landlord said the contractors had a copy of the RSEO.

The Landlord told the Tribunal that the same contractors were to carry out all of the works. He said they are not contractors that he usually works with.

Mr Melvin noted that the RSEO was issued in February 2024. He expressed concern that it was now August and there had been little progress on certain of the works. Mr Melvin said that the Tenant was concerned about the delay and that she would want her possessions in the garage protected.

The re-inspection report was issued to the Parties on 20 August 2024 and comments were invited within 14 days. On 20 August 2024 the Tenant's Representative lodged a written submission and sought a rent relief order of 90%. On 27 August 2024 the Landlord lodged a written submission.

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 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. A number of the works listed in the RSEO had been carried out but a number remain outstanding. No attempt has been made to remove the mould in the bathroom. The garage is not capable of being used. The reason given by the Landlord for not carrying out the works was that contractors were

busy. The Landlord told the Tribunal he was going to use a contractor that he did not normally work with. No explanation was given of any attempts to identify a contractor who could carry out the works within the timescale set out in the RSEO. The re-inspection took place some 6 months after the RSEO was issued. The Tribunal regards that as more than sufficient time for a contractor to be identified who was able to carry out the works. The Tribunal noted that no EICR had been provided to the Tribunal despite the Landlord telling the Tribunal at the Hearing on 12 August 2024 that one was available.

The Tribunal determined that a reduction of rent in the sum of 75% 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 September 2024