



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Section 25 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RT/24/0237

Re: Property at 7/1 High Street, Hawick TD9 9BZ (registered under title number ROX15601) (“Property”)

The Parties:

Dawn Berry, 7/1 High Street, Hawick TD9 9BZ (“Tenant”)

Gary Cairns, Kinninghaldell, Cavers, Hawick, Roxburghshire TD9 8LH (“Landlord”)

Dr Anca Carrington, Flat 71, Flaxman Court, Flaxman Terrace, London WC1H 9AN (“Landlord’s Representative”)

Tribunal Members :

Joan Devine (Legal Member); Greig Adams (Ordinary Member)

DECISION

The Tribunal determined to revoke the repairing standard enforcement order relative to the Property dated 21 May 2024 and the repairing standard enforcement order (as varied) relative to the Property dated 25 June 2024. The Tribunal's decision is unanimous.

Background

1. By application dated 17 January 2024, the Tenant applied to the Tribunal for a determination that the Landlord had failed to comply with their duties under Section 14(1) of the Housing (Scotland) Act 2006 (“the Act”).
2. Following an inspection and hearing, the Tribunal determined that the Property did not meet the repairing standard as required by Section 13(1) (d), (g) and (h) of the Act and that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act, and in particular that the Landlord had failed to ensure that the Property met the repairing standard in respect of Section 13(1)(d), (g) and (h) of the Act. The Tribunal therefore made a repairing standard enforcement order dated 21 May 2024 (“RSEO”) as required by Section 24(2) of the Act. The Tribunal varied the RSEO on 25 June 2024.

3. The Tribunal received an email from the Landlord's Representative in which they stated that the works set out in the RSEO and the RSEO (as varied) had been completed. By email dated 26 August 2024 the Tribunal asked the Tenant to state whether or not they agreed that both items of work had been completed. By email dated 5 September 2024 the Tenant stated that the kitchen light had been replaced and that a carbon monoxide detector had been supplied and placed in the kitchen although the Tenant stated that they were unsure whether it met satisfactory standards for giving warning if carbon monoxide was present in the Property in a concentration that is hazardous to health. The Tenant also made reference to a leak in the kitchen.
4. On 7 May 2024 the Landlord sent to the Tribunal a photograph of the carbon monoxide detector which had been delivered to the Property.

Decision

5. There were two parts to the RSEO and the RSEO(as varied). Firstly the replacement of the kitchen light and secondly the installation of a carbon monoxide detector. The Tenant confirmed that the kitchen light had been fixed and that the carbon monoxide detector had been installed. The photograph provided of the carbon monoxide detector showed that it had a British kitemark which indicates that it is of a satisfactory standard. A leak in the kitchen was not part of the RSEO or the RSEO (as varied).
6. The Tribunal determined that the work required by the RSEO is no longer necessary. The Tribunal therefore revokes the RSEO in terms of Section 25 of the Act.

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
9 October 2024**