

Housing and Property Chamber First-tier Tribunal for Scotland



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

Statement of Decision: Section 24(1) Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/22/2126

Property Address: 5/1 East Pilton Farm Crescent, Edinburgh EH5 2GF ("the property")

The Parties: Ms Natasha McGourt, Granton Information Centre, 134-138 West Granton Road, Edinburgh EH5 1PE ("third party applicant")

Mr Richard Elby, 3 Causton Way, Rayleigh SS6 8DD ("the landlord")

Tribunal members:

Mr Mark Thorley (Legal)
Ms Sara Hesp (Ordinary Surveyor)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') having made such enquiries as it saw fit, and being satisfied that all works required in terms of the RSEO dated 15th December 2022 have now been completed confirm that the RSEO should be revoked and a certificate of completion issued

Background

1. By application dated 29 June 2022 the third party applicant applied to the tribunal for a determination as to whether the landlord has failed to comply with the duties imposed by section 14(1)(b) of the Act.
2. The third party applicant considered that the landlord had failed to comply with his duty to ensure that the house meets the repairing standard in respect of the following matters, namely:-
 - (a) That the boiler had broken down completely on 8 June 2022 after being faulty for many months and with the consequent result that the tenant had been unable to obtain heating.
 - (b) That the washing machine within the property had not worked for a period of three months.

- (c) That the floor in between the kitchen and livingroom was damaged and presented as a tripping hazard.
- (d) That the livingroom ceiling was bowed and that the attempts to fix same had not been successful.
3. Accordingly the third party applicant set down that the property was not wind and watertight and in all other respects fit for habitation; the structure and exterior of the property (including drains, gutters and external pipes) were not in a reasonable state of repair and in proper working order; the installations to the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order; and any fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.
4. The third party applicant forwarded along with the application a copy of the Private Residential Tenancy Agreement for the property which had a commencement date of 1 August 2019 together with correspondence between the tenant and "Harry McLeod" of IRD Homes. The third party applicant had also written to the person referred to as "Harry McLeod".
5. The application was acknowledged by the tribunal on 1 July 2022. On 15 September 2022 the application was accepted for determination by the tribunal.
6. It is to be noted that the tribunal have regarded the property address as being 1/5 East Pilton Farm Crescent, Edinburgh. The application was made correctly as 5/1 East Pilton Farm Crescent, Edinburgh. Indeed clarification of this was made by the third party applicant by email of 2 August 2022.
7. The initial inspection took place on 25 November 2022. The following was identified
- The boiler is not in working order. The boiler does not produce heating and hot water is intermittent.
- No gas safety certificate has been produced.
- The washing machine is now in working order.
- The level of the flooring in the kitchen area is above that of the livingroom area.
- The ceiling has been repaired. Screws have been placed into the ceiling to deal with the crack. The ceiling is cosmetically unsightly.
8. The tribunal accepted the evidence of the tenant in that there was currently no central heating in the house. The tenant did not have a copy of the gas safety

certificate. The tribunal accepted the evidence of the tenant that the boiler was not in working order.

9. The floor between the kitchen and the livingroom was visible. The join had been taped over. Clearly the kitchen floor was at a slightly elevated level. This does present as a hazard. These should be levelled.
10. The tenant accepted that the washing machine was now working.
11. In relation to the ceiling although cosmetically unsightly the ceiling was fixed. This did not constitute a breach of the repairing standard.
12. The tribunal determined that the landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act as stated. The tribunal proceeded to make a repairing standard enforcement order as required by section 24(1).
13. The tribunal required the landlord to do the following:
 - (a) Take such reasonable steps as are required to ensure that the boiler is in proper working order.
 - (b) To provide a copy of the gas safety certificate.
 - (c) To level the flooring in the kitchen/livingroom.
 - (d) To site appropriately the carbon monoxide detector.

Reinspection and subsequent procedure

14. At a subsequent reinspection it was noted that the floor in the kitchen had been levelled and the carbon monoxide detector appropriately sited.
15. A certificate of completion was issued but thereafter an application was made to recall the order. The tribunal set aside its decision

16. whilst calling upon the Respondent to provide an up to date gas safety certificate.

17. The only outstanding issue was the boiler and the heating in the property. The respondent was called upon to provide an up to date gas safety certificate from a Gas Safe Registered contractor. This was dated 4th February 2024 and was supported by documentation showing the contractor was Gas Safe registered.

Decision

17. The tribunal being satisfied that all of the works required in terms of the RSEO have now been completed, have resolved that the RSEO should be revoked.

18. The tribunal has also determined to grant a certificate of completion in terms of section 60 of the 2006 Act confirming that the works required by the RSEO have been completed,

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.

M Thorley

Signed:

Chairperson

Date:

15 October 2024