



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Sections 26 (1) and 60 of the Housing (Scotland) Act 2006

Chamber Reference number: FTS/HPC/RT/23/4512

Re: Property at Flat 2, 43 Erskine Street, Dundee DD4 6RJ (“the Property”)

Title No: ANG15600

The Parties:

Dundee City Council, Private Sector Services Unit, 5 City Square, Dundee DD1 3BA (“the Third-Party Applicants”)

Mr Garry Mortimer, 11 Victoria Street, Newport on Tay, Fife DD6 8DJ (“the Landlord”)

**Tribunal Members: George Clark, Legal Member
Greig Adams, Ordinary (Surveyor) Member**

Decision

The First-tier Tribunal for Scotland Housing and Property Chamber, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 decided that the Landlords have complied with the Repairing Standard Enforcement Order made on 15 April 2024 and that a Certificate of Completion of Works should be issued.

Background

1. On 15 April 2024, The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“The Act”). The Tribunal made a Repairing Standard Enforcement Order (“the Order”), requiring the Landlord to:

- a) Remove the shower enclosure, shower tray and all wall panels within the Shower Room, remove the shower room floor covering and floorboards within the shower room beyond all areas of timber decay and/or elevated moisture readings, inspect and test all timber joists to areas of floor removed and carry out any joist repairs/replacement required to ensure that the joists remain structurally capable of accepting loads imposed and also free from any timber decay. On removal of wall panels inspect and make good the wall substrate as required to leave free from any decay, damage or dampness before installing new floorboards/chipboard flooring, re-installing the shower tray, installing new wall panels, re-installing the shower enclosure and providing a new floor covering. Allow for all plumbing works to complete and for sealing the shower enclosure, shower tray, wall panels etc and any decoration works to complete.
 - b) Appoint a Chartered Building Surveyor or Property Care Association registered Consultant or Contractor to inspect (i) the dampness affecting the Rear Bedroom reveal and (ii) the condition of the cement rendered window banding around the rear window, perimeter sealant and condition of the external window timbers/components; with (iii) recommendations to be provided within the report on remedial works to rectify the dampness. A copy of the report is to be provided to the Tribunal for further consideration.
 - c) Appoint a Chartered Building Surveyor or Property Care Association registered Consultant or Contractor to carry out a disruptive inspection within the Living Room including taking back the carpet floor covering at the radiator position to expose the underlying timber floorboards, uplifting a section of floorboards within the area presently damp to allow a sub-floor void inspection including of pipework contained within this void and also test radiator and pipework to establish cause of wet area on carpet floor covering. A copy of the report is to be provided to the Tribunal for further consideration.
 - d) Carry out such repairs as are necessary to ensure the entrance door and locks are secure and in proper working order.
 - e) Appoint a suitably qualified electrician to carry out such works as a necessary to ensure the power point in the hall and the light fitting in the toilet are in proper working order and thereafter to Exhibit to the Tribunal a current Electrical Installation Condition Report (EICR) from a SELECT, NICEIC or NAPIT registered electrician in respect of the property, containing no Category C1 or C2 items of disrepair.
 - f) To thoroughly dry out the living room carpet, restoring it to a reasonable condition, or to replace it.
 - g) To restore the cold water tap in the toilet to proper working order, or to replace it.
 - h) To properly secure the sink base unit and worktop to the kitchen wall.
2. The Tribunal ordered that the works required by the Order must be carried out and the Report and Electrical Condition Installation Report exhibited within three months of the date of service of the Order on the Landlord.

3. The Ordinary Member of the Tribunal reinspected the Property on the morning of 21 November 2024. The property was vacant, and the Tribunal Member was admitted to the Property by the Landlord. The Third-Party Applicant was not present or represented. A Schedule of Photographs, taken at the Reinspection is attached to this Decision.
4. The Tribunal noted that the Property has undergone substantial renovation and refurbishment. The shower room has been completely stripped out and replaced. The entrance door has been replaced and is in proper working order. There is new flooring throughout and the radiator which had leaked and caused the dampness in the living room carpet has been replaced. The toilet and wash hand basin have also been replaced and the cold water tap in the toilet is in proper working order. New kitchen units, worktop and sink had also been installed. A moisture-meter test disclosed evidence of dampness in the rear bedroom, but it is very minor and may be drying out. It was not of itself sufficient to warrant the continuation of the Order.

Hearing

5. The Tribunal held a Hearing by means of a telephone conference call on the afternoon following the Reinspection. The Third-Party Applicant was not present or represented. The Landlord was present. The Landlord advised that an EICR had been issued and undertook to forward it to the Tribunal.
6. On 24 November 2024, the Landlord produced an Electrical Installation Condition Report dated 1 June 2024, prepared by Rustic Pics Ltd, Dundee. It gave an overall rating of "Satisfactory" and did not contain any C1 or C2 items of disrepair, apart from one C1 item, namely a broken socket in the lounge, which the Report confirmed had been fixed and replaced at the time of the test. Evidence was also provided that the electrical contractors are members of SELECT.

Reasons for Decision

7. The Tribunal is satisfied that all the works required by the Order have now been satisfactorily completed and that, given the extent of the refurbishment, it no longer requires reports from a Chartered Building Surveyor or Property Care Association registered Consultant or Contractor. The Tribunal is also satisfied with the EICR. Accordingly, a Certificate of Completion of Works should be issued.

The decision of the Tribunal was unanimous.

Right of Appeal

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.

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.

G Clark

Legal Member

25 November 2024