

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Sections 26 and 27

Chamber Ref: FTS/HPC/RT/22/1343

2/1,19 Neilston Road, Paisley, PA 2 6LL, being the subjects registered in the Land Register of Scotland under Title Number REN91803 (“the Property”)

The Parties:-

Renfrewshire Council Communities and Housing, Renfrewshire House, Cotton Street, Paisley, PA1 1BR (“the Third Party”)

Mr Stuart Miller, 2/1, 19 Neilston Road, Paisley, PA2 6LL (“the Tenant”)

Ms Yuhan Yu, 2 Maryston Road, Glasgow, G33 1NU (“the First Landlord”)

Mr Ranaich Dunnett, Westlea, Sutherland Street, Helmsdale, KW8 6LQ (“the Second Landlord”)

Tribunal Members:

Mr Martin McAllister, Solicitor (legal member) and Mr Andrew Taylor, Chartered Surveyor (ordinary member) (“the tribunal”)

Decision

The tribunal determines:

(One) that the Second Landlord has failed to comply with a repairing standard enforcement order (RSE) dated 26 August 2022 and that a notice of failure be served on the local authority (Section 26 (2) (a) of the Housing (Scotland) Act 2006);

(Two) that a rent relief order be made reducing the rent payable under the tenancy by 50% (Section 27 (2) of the Housing (Scotland) Act 2006).

Background

1. By application dated 10 May 2022, the Third Party applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (the 2006 Act). The application is in terms of Section 22 (1) of the 2006 Act (“the 2006 Act.”)
2. The application states that the Property does not meet the repairing standard set out in Section 13 of the 2006 Act.
3. The then legal member (Ms Sweeney) and ordinary member inspected the Property on 5 August 2022 and, following a Hearing on the same day, issued a repairing standard enforcement order (“RSEO”) dated 26 August 2022.
4. The RSEO was in the following terms:

The Landlord was required to:

- 4.1 **Attach the radiator in the bedroom securely and safely to the bedroom wall;**
- 4.2 **Repair or replace the hot water tap in the kitchen to ensure that it is fully operational;**
- 4.3 **Investigate and repair the cause of water ingress above the oriel window in the living room;**
- 4.4 **Investigate and repair the cause of water ingress at the ceiling in the hallway;**
- 4.5 **Repair or replace the casement at the centre oriel window in the living room to ensure that it is capable of opening and closing, securely;**
- 4.6 **Repair or replace all fire detection equipment to ensure that the complete installation is interlinked;**
- 4.7 **Make good all plaster work and decoration arising from any of these repairs or works.**

The Tribunal ordered that the works specified in the RSEO be carried out and completed within 31 days of service of it on the First Landlord.

5. On 27 January 2023, the Property was reinspected by the ordinary member and it was found that the works required by the RSEO had not been carried out.
6. On 2 February 2023, Mr McAllister was appointed legal member as a replacement for Ms Sweeney.

The Second Landlord

7. On 8 February 2023, Mr Ronald Dunnett, father of Ranaich Dunnett, contacted the Tribunal and intimated that his son had purchased the Property and had been unaware of the existence of the RSEO. The email indicated that

a number of repairs had been instructed and that refurbishment of the Property was proposed.

8. On 30 October 2023, Mr Ronald Dunnett advised that some repairs had been completed but that a kitchen contractor had not completed their works because it was uncomfortable about working in the Property.
9. On 10 April 2024, Mr Ronald Dunnett indicated that some works required to be done and that the Second Landlord was considering selling the Property.
10. On 27 June 2024, the Tribunal wrote to Mr Ronald Dunnett and stated that it appeared that works had not been completed but that the members of the Tribunal were minded to vary the RSEO in terms of Section 25 (1) (a) of the 2006 Act to allow until 31 October 2024 for works required by the RSEO to be completed. Mr Ronald Dunnett was also advised that it is possible to apply to the Tribunal for assistance with access if this was an issue in having works completed.
11. On 24 July 2024, the Tribunal varied the RSEO and the Second Landlord was allowed until 31 October 2024 to complete the works required by the RSEO.

Reinspection 9 December 2024

12. The Tribunal members inspected the Property on 9 December 2024. The Tenant was present. The Third Party and the Second Landlord were not present. A re-inspection report and schedule of photographs prepared by the ordinary member is attached to this decision and is referred to for its terms.
13. Some works required by the RSEO had been completed.
14. The casement at the centre oriel window in the living room had not been repaired or replaced to ensure that it is capable of opening or closing securely.
15. There was no fire detection equipment in the Property. No smoke or heat detectors were installed.
16. Plasterwork and décor in the hall ceiling had not been made good after water ingress.

Hearing 9 December 2024

17. A hearing was conducted by teleconference at 2 pm on 9 December 2024. No parties were in attendance.
18. The tribunal considered what had been found at the re-inspection.

Determination

19. The tribunal had regard to Section 26 (2) of the 2006 Act:

Where the First-tier Tribunal decides that a landlord has failed to comply with the repairing standard enforcement order, the First-tier Tribunal must-
(a) serve notice of the failure on the local authority, and
(b) decide whether to make a rent relief order.

20. Three matters from the RSEO were outstanding and the tribunal determined to find that it had not been complied with and to serve notice of the non-compliance on the local authority in terms of Section 26 (2) (a) of the 2006 Act.
21. In terms of Section 26 (2) (b) of the 2006 Act, the tribunal was then required to consider making a rent relief order.
22. The necessity to ensure that a property complies with the repairing standard in relation to matters surrounding the detection of smoke and fire is important and a significant health and safety issue. The tribunal took this into account when exercising its discretion as to whether or not to make a rent relief order and, if one were to be made, what percentage should be applied to the reduction of rent.
23. The failure of the Second Landlord to ensure proper operation of the window in the living room was also concerning since that also involves potential safety issues.
24. The tribunal determined that a rent relief order should be made and that, because of the safety issues, the rent should be reduced by 50%.

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.

M McAllister

M J. McAllister,
Solicitor, legal member of

Tribunal.
9 December 2024



Re-Inspection Report 2



Property – 2/1, 19 Neilston Road, Paisley, PA2 6LL

Reference- FTS/HPC/RT/22/1343

Tribunal – Martin McAllister, Legal Chair, Andrew Taylor, Ordinary Member

Previous Inspections – 10.00am, 5th August 2022 & 10.30am, 27th January 2023

Re-inspection 2 – 11.00am, 9th December 2024

Weather – Clear, dry and cold

In Attendance – The Tribunal members named above attended the property. Also in attendance was Mr Stuart Miller, Tenant.

Purpose of Re-inspection - To establish if the work required under the Repairing Standard Enforcement Order had been completed.

RSEO – In terms of the RSEO issued on 26th August 2022 the Landlord was required to carry out such work as was necessary to ensure that the house meets the repairing standard and in particular the following specific areas: -

- 1. To attach the radiator in the bedroom securely and safely to the bedroom wall;**
- 2. To repair or replace the hot water tap in the kitchen to ensure that it is fully operational;**
- 3. To investigate and repair the cause of water ingress above the oriel window in the living room;**
- 4. To investigate and repair the cause of water ingress at the ceiling in the hallway;**
- 5. To repair or replace the casement at the centre oriel window in the living room to ensure that it is capable of opening and closing, securely;**
- 6. To repair or replace all fire detection equipment to ensure that the complete installation is interlinked;**
- 7. To make good all plaster work and decoration arising from any of these repairs or works.**

Works Carried Out

- 1. The radiator in the bedroom has been securely and safely attached to the wall;**
- 2. The hot water tap in the kitchen has been replaced and is fully operational;**
- 3. The water ingress above the oriel window in the living room has been addressed and made good.**
- 4. The water ingress at the ceiling in the hall has been addressed but plaster/decoration has not been made good.**
- 5. All fire detection apparatus has been removed.**

Works In RSEO Outstanding

- 1. To repair or replace the casement at the centre oriel window in the living room to ensure that it is capable of opening and closing, securely;**
- 2. To provide fire detection equipment to ensure that the complete installation is interlinked and complies with current regulations**
- 3. To make good all plaster work and decoration arising from any of these repairs or works and including the hall ceiling.**

Photographs 9th December 2024)



- 1. Repaired ceiling at oriel window, living room.**



2. Ceiling and wall in hall.

Andrew Taylor

Surveyor Member, Housing and Property Chamber, First-tier Tribunal for Scotland

9thth December 2024