

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 60 of the Housing (Scotland) Act 2006 ("the 2006 Act")

Chamber Ref: FTS/HPC/RP/24/0230

Property at 15D Baffin Street, Dundee, DD4 6HB ("the Property")

Land Register Number: ANG61383

The Parties:-

**Mr Yaser Dweik, 15D Baffin Street, Dundee, DD4 6HB
("the Tenant")**

**Mr Mohammed Dweik, 87/2 Albert Street, Dundee, DD4 6PB
("the Tenant's representative")**

**Amountview Limited, 56 Torridon Road, Broughty Ferry, Dundee,
("the Landlord")**

**Pavillion Properties, India Buildings, 86 Bell Street, Dundee, DD1 1HN
(the Landlord's representative)**

Tribunal Members:

Gillian Buchanan (Chair) and David Godfrey (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal"), with reference to the Repairing Standard Enforcement Order ("RSEO") dated 30 May 2024 and having considered the outcome of the Tribunal's subsequent further enquiries in this regard, the Tribunal determined that a Certificate of Completion of Works should be issued in terms of Section 60(4) of the 2006 Act.

Background

1. Reference is made to the determination of the tribunal dated 30 May 2024 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that it had failed to ensure that the Property met the repairing standard. The works required by the RSEO were: -

- a. To engage a suitably qualified contractor (i) to investigate the extent and cause of the water ingress into the living room and rear bedroom of the Property, (ii) to eradicate any such ingress of water to ensure the Property is wind and watertight and in a reasonable state of repair and (iii) thereafter to repair any damaged plasterwork and redecorate as required.
- b. Following the execution of the works identified as being necessary in terms of paragraph 1 above, to provide evidence thereof to the tribunal and written confirmation that the source of the dampness has been eradicated.

The RSEO gave the Landlord 28 days to carry out the works.

2. By email dated 27 June 2024 the Landlord's representative, Mr Paul Letley of Pavilion Properties, sent to the tribunal a progress report on the works required by the RSEO including a series of photographs. Mr Letley stated:-

"Dear Sirs

I refer to the above case and am writing to update you on progress with the work. SR Roofline , a local roofing contractor, was on the roof today. He met with the tenant who showed him the area of water penetration in the lounge. By means of a cherry Picker he accessed the roof and identified what he considers to be the cause of the water penetration. There were several areas of roof work requiring attention.

1. The double glazed units fitted into the mansard construction of the attic flat should have had a flashing connecting them to an upstand behind the slates so any water coming off the cill or driving rain hitting the areas under the cill would be directed to the gutter. Unfortunately when they were installed the upstand was too short and there was no connecting flashing. For this reason any driving rain would get access to the framework of the attic wall and then run down to the ceiling of the flat below. New upstands and flashing have been installed today so this problem should not recur.

2. Some of the lead flashing had lifted and there was damage to some parts leaving areas of wood exposed to the elements. These areas have been patched and repaired.

3. The valley gutter/slashing to the side of the dormer window projection was choked with vegetation. This has been cleared.

4. The gutter along the front of the building is prone to choking as it has a very shallow gradient and any build up of debris or vegetation will cause it to fill up. This has been cleared.

5. The build up of vegetation in the rear gutter has still to be cleared. It was not safe to attempt this from the front of the building. We are arranging for the contractor to return to the property very soon. Access via the flat above will be required.

*Yours faithfully
Paul Letley"*

Re-inspection

3. On 13 November 2024 the tribunal re-inspected the Property. The Tenant was present and gave access. He was accompanied by his son and representative, Mr Mohammad Dweik. The Landlord was not present but was represented by Mr Sean Cruickshank of Pavillion Properties.
4. The re-inspection revealed that the ceilings and upper walls of the living room and rear bedroom which were previously affected by water penetration have been repaired and

redecorated. The Tenant confirmed that there had been no issues with the ingress of water since and he was happy that the problem had been fixed.

Hearing

5. Following the inspection of the Property the tribunal held a hearing at Endeavour House, 1 Greenmarket, Dundee, DD1 4QB on 30 May 2024. At the hearing the Tenant and his representative were present. The Landlord was neither present nor represented.

The hearing was initially in respect of this application and thereafter the related application bearing reference FTS/HPC/CV/24/0260.

At the Hearing in this application the Tenant confirmed that there had been no issues with the ingress of water since and he was happy that the problem had been fixed.

Reasons for Decision

6. In terms of Section 26(1) of the Act it is for the tribunal to decide whether a landlord has complied with an RSEO.
7. Subsequent to the Re-inspection and Hearing the tribunal considered whether the Landlord had complied with the RSEO. The tribunal considered in particular the terms of the email of 27 June 2024 from Mr Letley with attachments thereto.
8. On the balance of probabilities and after careful reflection the tribunal determined that the Landlord had complied with the RSEO. Details of the contractor appointed had been provided. The tribunal accepted the contractor to be suitably qualified. Details of the investigations undertaken by the contractor had been provided and the contractor's findings reported. Details of the works undertaken had been provided and these works appear to have successfully eradicated the ingress of water such that no further leaks have since taken place.

Decision

9. The Tribunal therefore determined to issue a Certificate of Completion.
10. The decision of the Tribunal was unanimous.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only 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 Buchanan

Legal Member

22 January 2024