



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

STATEMENT OF DECISION in respect of an application under Section 24 (1) of the Housing (Scotland) Act 2006 (“the Act”) and issued under the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016

Reference number: FTS/HPC/RP/22/3546

Land Register Title number AYR48366

Re: Property at 25 Hunterston Road, West Kilbride, KA23 9EX (“the Property”)

The Parties:

Alan Gilmour (“the Applicant/Tenant”)

Yuk Lee, residing at 17 Castle Drive, Kilmarnock KA3 1TN (“the Respondent/Landlord”)

Tribunal members

James Bauld (Legal Member) and Donald Wooley (Ordinary Member

Background

1. By application initially lodged on 28 September 2022, the applicants as tenants of the property made an application to the First Tier Tribunal (Housing and Property Chamber) indicating that they believed that the respondent who is the landlord of the property was failing to comply with the duty imposed on her by section 14 (1) (b) of the Housing Scotland Act 2006 (hereinafter referred to as “the 2006 Act”). They complained that the property did not meet the repairing standard set out in the 2006 Act and the Tribunal, after an inspection and hearing on 8 February 2023, issued a Repairing Standard Enforcement Order (RSEO) dated 27 February 2023 in respect of the property.
2. The terms of the RSEO initially required the Landlord to

- Instruct a suitably qualified damp specialist to prepare a survey report of the stairwell and ground floor entrance hall areas, detailing the cause and full extent of the dampness and damp staining together with a proposed specification outlining all necessary remedial action.
 - Submit the report to the tribunal for further consideration and thereafter, carry out all works then required by the tribunal as are necessary to eradicate the damp from the property and to ensure that the property meets the Repairing Standard.
 - Instruct a suitably qualified tradesperson to inspect and repair or replace the defective taps at the bath, ensuring that they are fully capable of being turned off, no longer emit an unnatural sound, are in a reasonable condition and in proper working order.
 - Adjust, relay or repair that area of flooring in the hall located between the cupboard and bathroom, ensuring that it is well supported and free from periodic "impact contact" with any internal plumbing and/or central heating pipework.
 - Adjust, relay or repair the section of defective flooring in the bathroom which has caused damage to the linoleum floor covering and renew or replace the damaged floor covering.
 - Make good any decoration necessary following completion of the repairs.
3. The tribunal also ordered that the works specified in the RSEO were to be carried out and completed within the period of six weeks

Reinspection and subsequent responses from parties

4. Upon the expiry of that period of time arrangements were made for the tribunal to re-inspect the property.
5. A reinspection was carried out on 12 July 2023.
6. A report of the reinspection was prepared and was issued to the parties together with a schedule of photographs. The parties were invited to comment upon the report.
7. After reviewing responses from both parties, the tribunal took the view that the landlord had failed to implement the entirety of the works required in terms of the RSEO and was accordingly in breach of the order. The tribunal determined to make a rent relief order ("RRO") and a decision to that effect was issued and intimated to the parties.

8. The rent relief order was sent to the parties on 24 August 2023.
9. Subsequent to the issue of the RRO the tribunal were in regular receipt of correspondence from both parties regarding arrangements being made to carry out the final required repair.
10. The only outstanding repair relates to the renewal or replacement of the damaged floor covering within the bathroom.
11. The tribunal were advised by the parties that a variety of arrangements had been made by the landlord for a carpet fitter to attend at the property. Arrangements have been made in November 2023, February 2024, March 2024, July 2024 October 2024.
12. The necessary work was not carried out because the tenant was not able to allow access to the line contractor
13. By email dated 19 November 2024 the tenant's representative confirmed that access for the final outstanding repair has still not been arranged. He indicated the applicant had recently been unwell and difficult to contact. He confirmed that the tenant would not be well enough to arrange access in the near future. The representative indicated that the tenant did not oppose any decision to amend or revoke the repairing standard enforcement order or the rent relief order.

Decision

14. The tribunal, being satisfied that all works required in terms of the RSEO have now been completed with the exception of one very minor item, have resolved that the RSEO should be revoked.
15. Having decided to revoke the RSEO, the tribunal also decides in terms of section 27 (4) of the Housing (Scotland) 2006 to revoke the rent relief order
16. 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 repairing standard enforcement order has been completed.
17. The Decision of the Tribunal is 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.

Signed **J Bauld**

Date *4 February 2025*

K Donnelly

witness

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