



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

Chamber Reference number: FTS/HPC/RP/24/1156

Re: Property at 71 Clermiston Road, Edinburgh EH12 6UY (“the Property”)

Title No: MID84957

The Parties:

Ms Victoria Ruthven. 71 Clermiston Road, Edinburgh EH12 6UY (“the Tenant”)

Mr Geoffrey Dorrat Bain, 71 Clermiston Road, Edinburgh EH12 6UY (“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 Landlord has complied with a Repairing Standard Enforcement Order in respect of the Property made on 21 August 2024, decided that the Landlord has failed to comply with the Order, and that this failure should be reported to City of Edinburgh Council and to Police Scotland. The Tribunal also made a Rent Relief Order.

Background

1. By application, dated 8 March 2024, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland (“the Tribunal”) for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The application stated that there were issues with the supply of electricity to the Property. She contended that the landlord had tampered with the wiring, such that she was paying for the Landlord’s electrical usage in the portion of the Property that he occupies, that ceiling lights had been removed and that

there was a burning smell when the shower in the Property is used. She wished the Tribunal to order the Landlord to produce an Electrical Installation Condition Report.

3. Following an Inspection and Hearing held on 31 July 2024, the Tribunal made a Repairing Standard Enforcement Order (“RSEO”) on 21 August 2024, requiring the Landlord 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. The Tribunal ordered that the EICR should be exhibited within six weeks of the date of service of the Order on the Landlord.
4. A further Hearing was held by means of a telephone conference call on the morning of 9 January 2025. It was not necessary for the Tribunal to reinspect the Property, as the RSEO required the Landlord to provide written documentation and did not specifically require him to carry out any work to the Property. Both Parties attended the Hearing.
5. The Landlord confirmed to the Tribunal that he had not obtained an EICR. He did not provide any reasonable excuse for that failure, the comments he made being related to matters, including challenging the right of the Tenant to be in the Property, which were outwith the scope of the task of the Tribunal in relation to the Tenant’s application. The Tenant also raised issues beyond the application and the RSEO, and both Parties were told that their comments were not relevant to the only question that the Tribunal could consider, namely whether the RSEO had been complied with.

Reasons for Decision

6. The Landlord has failed to provide the Tribunal with the EICR as required by the RSEO and has offered no reasonable excuse for his failure to do so. He has, therefore, failed to comply with the RSEO.
7. Section 28 of the 2006 Act provides that “A landlord who, without reasonable excuse, fails to comply with a repairing standard enforcement order commits an offence”. Accordingly, the Tribunal decided that the failure to comply should be reported to Police Scotland for possible prosecution.
8. The Tribunal then considered whether to make a Rent Relief Order (“RRO”) under Section 27 of the 2016 Act. The view of the Tribunal was that production of an EICR was essential to ensure the safety of the Tenant and her family and that the further step of making a RRO was, therefore, appropriate. The Tribunal decided that the rent payable by the Tenant should be reduced by 50% to reflect the seriousness of the Landlord’s failure to comply.
9. The Tribunal’s Decision 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.

G Clark

Legal Member

9 January 2025
Date