

Housing and Property Chamber

First-tier Tribunal for Scotland



**First-tier Tribunal for Scotland (Housing and Property Chamber)
Decision with Statement of Reasons in terms of Section 25 of the Housing
(Scotland) Act 2006 (“the Act”) in respect of an application under Section
22(1A) of the Act**

Chamber Reference number: FTC/HPC/RT/23/0979

Parties:

1. Renfrewshire Council per its employee Ms. Bernadette Kettle, Environment, Housing and Infrastructure, Renfrewshire House, Cotton Street, Paisley, PA1 1JD as third-party applicant in terms of Section 22(1A) of the Act (“the Third - party Applicant”);
2. Mr. Yoon Fat Siow, residing formerly at 40, Bowhill View, Cardenden, Lochgelly, KY5 0NP and now at Flat 2/3, 13, Wilson Street, Renfrew, PA4 8NP (“the Landlord”) per his agents, Mackinlay & Suttie, Solicitors, 48, Cross Arthurlie Street, Barrhead, G78 1QU (“the Landlord’s Agents”) who nominated Mr. R. Dickson as a representative Mr. R. Dickson.

Property: Flat 0/1, 13, Wilson Street, Renfrew, PA4 8NP being the subjects registered under title sheet number REN8655

Tribunal Members

Karen Moore (Chairperson) and Donald Wooley (Ordinary Member)

Background

1. By application received between 27 and 28 March 2023 (“the Application”), the Third -party Applicant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (c), 13 (1) (d), 13(1)(e), 13(1)(f), 13 (1) (g) and 13(1) (h) of the Act.

First Inspection and Hearing

2. An Inspection and Hearing took place on 22 June 2023 after which the Tribunal made a Repairing 2 Standard Enforcement Order (RSEO) to be complied with by 31 December 2023. The Landlord did not comply with the RSEO.

3. A further Inspection and Hearing took place on 15 March 2024, after which the Tribunal varied the RSEO as follows:

“The Landlord must on or before 3 July 2024 carry out all of the following:- 1. Repair or renew the entry door to the Property and ensure that it is in a reasonable state of repair, has internal and external handles and is in proper working order; 2. Repair or renew the front window and ensure that it is in a reasonable state of repair, wind and water tight and in proper working order; 3. Repair or renew the living room window handle and ensure that it is in a reasonable state of repair and in proper working order; 4. Replace the kitchen in the Property and ensure that all kitchen units and appliances are in proper working order and comply with current statutory guidance; 5. Replace the shower or install a bath in the Property and ensure that it is in proper working order and complies with current statutory guidance; 6. Repair or replace the WC in the Property and ensure that this is in proper working order and complies with current statutory guidance; 7. Install smoke detectors in the living room and hall and a heat detector in the kitchen of the Property and ensure that these meet the requirements contained in the Housing (Scotland) Acts 1987 and 2006, as subsequently modified in 2019, and are interconnected and fully functional 8. Provide to the Third Party Applicant and the Tribunal a current Electrical Installation Condition Report (EICR) for the Property. The EICR requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category, requires to report on the installation of smoke and heat detectors and requires to include testing of portable appliances present in the Property. 9. Carry out all incidental and decorative works occasioned by the works necessary to comply with this Order to leave the Property in the condition required by the Repairing Standard.”

Third Inspection and Hearing.

4. A third Inspection and Hearing took place on 1 November 2024. At the Inspection, the Third -party Applicant was not present. The Landlord was present and accompanied by Mr. R. Dickson, a representative appointed by the Landlord’s Agents. At the Hearing, again, the Third -party Applicant was

not present. The Landlord was not present and was represented by Mr. R. Dickson.

5. At the Inspection, the Tribunal noted that refurbishment work was part completed and that materials were present in the Property to carry out further works. However, electrical work had not been completed, there was no EICR for the Property and there were no compliant heat or smoke detectors. The Tribunal has issued an Inspection Report with supporting photographs.

6. At the Hearing, Mr. Dickson stated that limited finances had hampered progress. He stated that the works required by the RSEO should be completed within the next few weeks and advised that an electrician had been instructed to attend at the Property on 1 November 2024 to complete the electrical work and to issue an EICR. The Tribunal reminded Mr. Dickson that the EICR must be issued by an accredited electrician.

7. The Tribunal explained to Mr. Dickson that the matters to be determined by the Tribunal are whether or not the Landlord has complied with the RSEO in full or in part, if it should vary or revoke the RSEO or if it should make a finding of failure to comply with the RSEO. The Tribunal explained that a finding of failure to comply would result in a referral to Police Scotland for criminal prosecution.

8. The Tribunal took the view that, although ample time had been given to comply with the RSEO and the RSEO as varied, as progress had been made and as a finding of failure to comply would have serious consequences for the Landlord, the Tribunal would adjourn the Inspection to a later date to allow time for the works required by the RSEO to be carried out. The Tribunal also considered the fact that as at the date of inspection the property is no longer tenanted. The Tribunal advised that a further Hearing was not required as it would base its final decision on the Inspection.

9. The adjourned Inspection took place on 27 November 2024 at 10.00 am. At the Inspection, the Third -party Applicant was not present. The Landlord was present and accompanied by Mr. R. Dickson. At that Inspection, the Tribunal noted that work was still in progress. The installation of the kitchen was incomplete, the decoration was outstanding and the electricians, who were present, were in the process of finalising the electrical works. Accordingly, no EICR had been issued.

10. As the RSEO had not been complied with, the Tribunal adjourned the Inspection to a further Inspection and Hearing. The Tribunal issued an Inspection Report with supporting photographs.

11. Following the Inspection on 27 November 2024, a valid EICR was lodged on behalf of the Landlord.

Fourth Inspection and Hearing.

12. A fourth re-inspection and Hearing took place on 28 January 2025. At the Inspection, the Third -party Applicant was not present. The Landlord was not present and was represented by Mr. R. Dickson. At the Hearing, again, the Third -party Applicant was not present. The Landlord was not present and was represented by Mr. R. Dickson.

13. At that Inspection, the Tribunal noted that the work required by the RSEO was still in progress. The installation of the kitchen was almost complete. However, the sink had yet to be plumbed in and so there was no running water. The Tribunal noted that an attempt had been made to decorate the Property.

14. At the Hearing, Mr. R. Dickson explained that the plumber had purchased the wrong fittings and stated the correct parts should be obtained later in the week to allow the sink to be fully installed by the weekend. Mr. Dickson advised that the Landlord was currently on holiday.

Summary of the Issues

15. The issues to be determined by the Tribunal are whether or not the Landlord has complied with the RSEO in full or in part and if it should vary or revoke the RSEO or if it should make a finding of failure to comply with the RSEO. The Tribunal adjourned to consider these issues.

Decision of the Tribunal and Reasons for the Decision of the Tribunal

16. The Tribunal had regard to Section 25 (1) of the Act which states: -“(1) *The first-tier tribunal which made a repairing standard enforcement order may, at any time (a) vary the order in such manner as they consider reasonable, or (b) where they consider that the work required by the order is no longer necessary, revoke it.*”

17. With regard to Section 25(1)(b), the Tribunal gave consideration to whether it should revoke the RSEO. As the kitchen does not have a usable sink and is not connected to the mains water supply, the Tribunal was not of a mind to revoke the RSEO.

18. Although the Landlord has had a significant amount of time to comply with the RSEO and the RSEO as varied, the Tribunal took the view that as the proper plumbing of the sink should be relatively straightforward and low cost, the Tribunal would vary the RSEO for a final time.

19. The Hearing reconvened and the Tribunal advised Mr. Dickson that it would vary the RSEO to allow until the end of February 2025 for the RSEO to be completed. The Tribunal advised Mr. Dickson that, when the work is complete, the he or the Landlord should submit photographs showing the kitchen sink to be fully plumbed and water running from the taps. This would allow the Tribunal to consider if it could decide that the RSEO is satisfied without a further Inspection and Hearing.

20. The decision is unanimous.

Variation of Repairing Standard Enforcement Order

21. The Tribunal proceeded to vary the RSEO.

Appeal

22. 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

Karen Moore, Chairperson

Date 31 January 2025