

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 60 of the Housing (Scotland) Act 2006 (“the 2006 Act”) – Certificate of Completion

Re: Flat 2/2, 528 Victoria Road, Glasgow, G42 8BG (“the House”)

Title number: GLA 148038

Chamber Ref: FTS/HPC/RT/23/2294

Parties:-

Glasgow City Council – Neighbourhood, Regeneration & Sustainability Service, 231 George Street, Glasgow, G1 1RX (“Third Party Applicant”)

Ms Molly McEwen, Mr Euan Gibb, residing at the House (“the Tenant”)

Mr Paul McGunnigle, Ms Lesley Stewart, 250 Wond Chuk Wan Village, Sai Kung, Hong Kong (“the Landlord”)

Tribunal Members:

Nicola Weir (Legal Member) and Lorraine Charles (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 8 April 2024 and, having re-inspected the House and made further enquiries in this regard, the Tribunal determined that a Certificate of Completion of Works should be issued in terms of Section 60(5) of the 2006 Act.

Background

1. By application received on 11 July 2023, the Third Party Applicant submitted an application to the Tribunal in terms of Section 22 of the 2006 Act claiming breach of the Repairing Standard by the Landlord in respect of various repair issues affecting the House. The Tenant is a party to the application. The repairs issues identified in the application and which had been notified by the Third Party Applicant to the Landlord by email in advance of submitting the application to the Tribunal, were as follows:-
 - Flooring at various points throughout damaged and causing splinters;
 - Bathroom floor tiles;
 - Damp in bathroom walls/ceilings;
 - Service windows throughout; not currently wind, watertight and fully operational;
 - Cracks in hallways walls/ceiling – possibly cosmetic but advised to investigate and confirm.

Supporting documentation was submitted with the application, including a chronology of events and proof of intimation of the repairs issues by the Third Party Applicant on the Landlord by email on 20 February 2023, several months prior to the application being submitted to the Tribunal.

The Tribunal obtained a copy of the title deed and Landlord Registration details in respect of the House and it was noted that both are in the name of the Landlord and appeared to be in order.

2. On 13 September 2023, a Legal Member of the Tribunal, acting under delegated powers in terms of Rule 9 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) issued a Notice of Acceptance of the Application. Notice of Referral to the Tribunal, Inspection and Hearing was issued to the parties on 1 November 2023, requesting that any written representations should be lodged with the Tribunal by 22 November 2023. The Inspection and Hearing were fixed to take place on 13 December 2023.
3. On 11 December 2023, the Inspection and Hearing were postponed at the request of the Tenant who advised that they had received late intimation of the Inspection and Hearing. It was noted by the Tribunal that intimation to the Landlord had been made by post to a Hong Kong address, which contained no postcode or similar and that there had been no contact from the Landlord to the Tribunal, nor representations lodged. Accordingly, the Tribunal instructed intimation of the application on the Landlord via the email address used by the Third Party Applicant to communicate with the Landlord. In response to this intimation, the Landlord contacted the Tribunal Administration by email on 11

December 2023 and were thereafter provided with full details of the application. The email from the Landlord provided some background information, claiming that the complaints regarding the House were unfounded and that the Tenant was in arrears of rent amounting to over £8,000. The email indicated that their letting agent would be in contact with the Tribunal regarding representation of the Landlord at the Tribunal. The Landlord's email was circulated to the Third Party Applicant and Tenant. The Tenant responded by email dated 14 December 2023, confirming that rent was being withheld due to the repair issues but denying the other claims being made by the Landlord.

4. A fresh Inspection and Hearing were fixed to take place on 21 March 2024 and details intimated to the parties on 20 February 2024. There was no further contact from the Landlord and no contact from the Landlord's letting agent prior to the Inspection and Hearing.
5. On 5 March 2024, the Tenant emailed the Tribunal Administration to advise that they had been offered alternative accommodation and would be vacating the House soon. They wished to continue with the Tribunal application meantime and sought advice regarding their position. The Tribunal Administration referred them to the Third Party Applicant for advice on their position and requested that the Tenant inform the Tribunal if they vacated the House meantime. No such intimation was received from the Tenant or the Third Party Applicant prior to the Inspection and Hearing, although the Tenant confirmed by email on 20 March 2024 that the Tribunal would be given access to the House for the purposes of Inspection on 21 March 2024.

Inspection and Hearing

6. The Tribunal Members inspected the House on 21 March 2024 at 10am. The Tenant, Ms Molly McEwan, was in attendance. Following the Inspection of the House, the Tribunal held an in-person Hearing at 11.45am at Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT. Again, only the Tenant was in attendance.
7. Following the Inspection and Hearing, the Tribunal determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the 2006 Act to ensure that the House meets the Repairing Standard and proceeded to make an RSEO as required by Section 24(1) of the 2006 Act.

Repairing Standard Enforcement Order

8. The RSEO was dated 8 April 2024 and required the Landlord, within 8 weeks of the notification of the RSEO:-

1. *Repair or as necessary replace all the single glazed windows within the House to ensure that they can be opened to provide adequate ventilation, closed properly, are in a reasonable state of repair, in proper working order and that the House is wind and watertight and in all other respects reasonably fit for human habitation; and to make good the surrounding decoration.*
2. *Instruct a structural engineer or other suitably qualified contractor to investigate the cause(s) and full extent of the cracking to the hall and kitchen walls/cornice/ceilings and to report on their findings and any recommended remedial action required; submit their report to the Tribunal for further consideration as soon as available; and thereafter to carry out all works as required by the Tribunal to rectify any defects and make good any resultant decoration to ensure that the House is in a reasonable state of repair, wind and watertight and in all other respects reasonably fit for human habitation.*
3. *Instruct a damp specialist or other suitably qualified contractor to investigate the cause(s) and full extent of the mould and any damp in the bathroom and to report on their findings and any recommended remedial action required; submit their report to the Tribunal for further consideration as soon as available; and thereafter to carry out all works as required by the Tribunal to rectify any defects and make good any resultant decoration to ensure that the House is in a reasonable state of repair, wind and watertight and in all other respects reasonably fit for human habitation.*
4. *Instruct a suitably qualified contractor to investigate the cause(s) and full extent of the damaged areas of the original timber flooring throughout the House and, in particular, in the hall, rear bedroom and living room, where the wood is splintering/has splintered and lifted and to report on their findings and any recommended remedial action required; submit their report to the Tribunal for further consideration as soon as available; and thereafter to carry out all works as required by the Tribunal to rectify any defects and make good the floor surfaces to ensure that the House is in a reasonable state of repair and in all other respects reasonably fit for human habitation.*
9. A detailed Statement of Reasons Decision was issued, attaching a copy Schedule of Photographs taken during the Inspection by the Ordinary (Surveyor) Member, together with the RSEO, explaining the basis for the Tribunal's decision in respect of the application.
10. Following the issue of the RSEO and the expiry of the time period of 8 weeks specified in the RSEO, the Tribunal notified parties that a Re-inspection by the Tribunal would take place on 6 August 2024. The Tribunal also sought clarification as to whether the Tenant had vacated the House, which the Tribunal had understood would be shortly after the

Inspection and Hearing had taken place. On 16 July 2024, emails were received from both the Third Party Applicant and the Landlord. Both confirmed that the Tenant had now vacated the House. The Landlord also complained about the Tribunal process which they considered favoured the Tenant. As the Tenant had vacated and the tenancy ended, the Tenant was thereafter treated as having withdrawn in terms of paragraph 7(1) of Schedule 2 to the 2006 Act and thereafter had no further involvement in the Tribunal process.

11. The Tribunal sought to engage in further correspondence with the Landlord with a view to arranging the Re-inspection of the House and to provide the Landlord with information as to their various options in order to bring this matter to a conclusion. No further correspondence was received from the Landlord prior to the Re-inspection.

Re-inspection – 6 August 2024

12. On 6 August 2024 at 10am, the Tribunal Members attended at the House for purposes of Re-inspection. However, access was not granted. There was no response at the door and the House appeared to be unoccupied.
13. On 15 August 2024, a copy of the Re-inspection schedule prepared by the Ordinary Member of the Tribunal was issued to parties. The Tribunal also informed the Landlord that the Tribunal intended to arrange a further Re-inspection and that, if access was not obtained to the House on this occasion, the Tribunal had power, in terms of the legislation, to seek an Entry Warrant. Again, the Landlord was provided with information as to their options. Parties were subsequently notified of the further Re-inspection arrangements. Again, no further communication was received from the Landlord prior to the further Re-inspection.

Re-inspection – 28 November 2024

14. On 28 November 2024 at 10am, the Tribunal Members attended at the House for purposes of Re-inspection. Again, the House appeared to still be unoccupied but, on this occasion, access was provided by a representative of the Landlord, who indicated that he was the brother-in-law of one of the Landlords. The Re-inspection took place.
15. Following the Re-inspection, a copy of the Ordinary Member's Re-inspection Report dated 28 November 2024 was issued to parties on 6 December 2024, requesting any further comments. A copy of the Re-inspection Report is attached to this Decision and referred to for its terms.
16. The Landlord was also asked by the Tribunal on 6 December 2024 to submit to the Tribunal by 20 December 2024 a copy of any report obtained from a contractor in respect of the cracking to the plasterwork,

which had previously been requested in terms of the RSEO. No response was received from the Landlord and no comments from either party in respect of the Re-inspection Report.

17. Having considered their findings on Re-Inspection and the fact that there had been no further representations or documentation received from parties, the Tribunal was of the view that a further Hearing was not required on these matters and proceeded to make their decision.
18. The Tribunal noted on Re-inspection that some works had been carried out to the windows in that they had been fitted with draught excluders and there was no evidence of draughts noted. All windows were closed but were difficult or unable to be opened. The timber floors throughout the House had been sanded and stained and there was no evidence of wear and tear or loose/damaged sections of timber. Previous cracks in the hall, bathroom and kitchen had been plastered and painted over but some cracks were still visible. The Tribunal noted that works had started to replace the original bathroom suite. No evidence of mould was noted.
19. The Tribunal considered whether the works stipulated in the RSEO have been completed and the requirements of the RSEO met.

Decision

20. The Tribunal decided to issue a Certificate of Completion of Works in terms of Section 60(5) of the 2006 Act.

Reasons for decision

1. The Tribunal considered the whole background to this case, the terms of the RSEO and their findings on Re-inspection. Although all the requirements of the RSEO had not been fulfilled, particularly in respect of the requirement for the Landlord to provide the Tribunal with reports from suitably qualified contractors in respect of certain matters, the Tribunal determined that the main outstanding issues had now been addressed satisfactorily by the works carried out to the House and that the Repairing Standard was met.
2. The Tribunal did, however, wish to make the observations that some of the windows were still difficult to open and that, although the plasterwork in some areas of the walls and ceilings had been repaired/decorated, some cracking was still visible and it may be that the Landlord would wish to have further investigations/works carried out in respect of these issues in due course. However, it appeared that the Landlord was still refurbishing the House and that it was currently empty and unoccupied.

3. In all these circumstances, the Tribunal is accordingly of the view that it is now appropriate to grant a Certificate of Completion of Works in terms of Section 60(5) of the 2006 Act.
4. The decision of the Tribunal is unanimous.

Right of Appeal

A landlord, tenant or third party applicant 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.

In terms of Section 63 of the Act, 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.

N Weir

Signed..... Date: 24 February 2025
Nicola Weir, Legal Member of the Tribunal

Housing and Property Chamber

First-tier Tribunal for Scotland



Re-inspection summary and Schedule of Photographs



Property Flat 2-2 528 Victoria Road, Glasgow G42 8G

Ref No: FTS/HPC/RT/23/2294

Tribunal members Mrs Weir Legal member and Ms Charles Ordinary member (Surveyor)

Purpose of inspection

The purpose of the inspection is to prepare a record of the position at the property, specifically as it relates to the items raised in the application and any issues arising therefrom.

Access

The above Tribunal Members attended the property at 10:00am on 28/11/24. The property was unoccupied but access was given by the landlord's representative.

Lori Charles

BSC (Hons) MRICS

Ordinary (Surveyor) Member
First-Tier Tribunal for Scotland
28/11/2024

Appendix 1

Schedule of photographs taken during the inspection on 28/11/24. Flat was unoccupied, unheated and works to the property still to be completed.

Windows



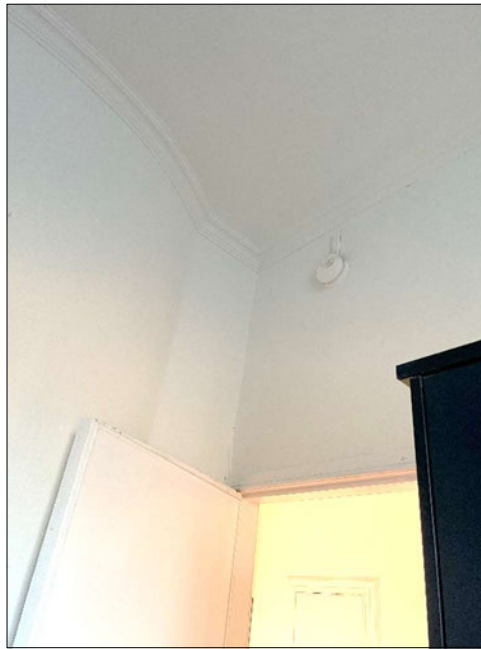
Windows have been fitted with draught excluders and no evidence of draughts noted during inspection. All windows were closed and difficult or unable to be opened.

Timber flooring throughout flat



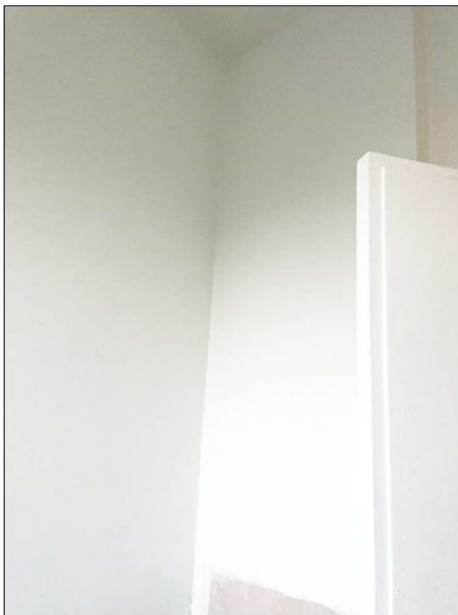
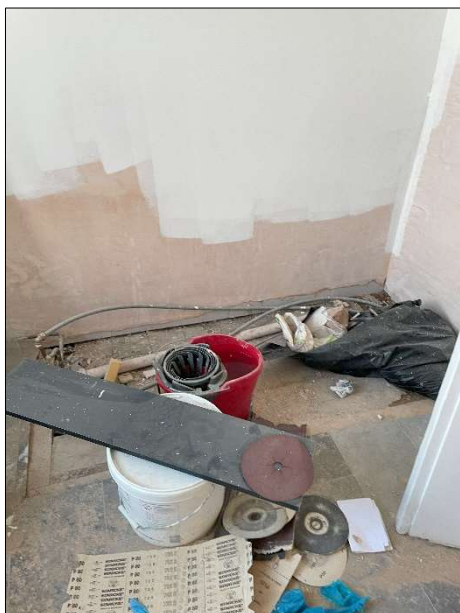
All floors have been sanded and stained, no evidence of wear and tear or loose/damaged sections of timber.

Kitchen and Hall



Previous cracks in the hall, bathroom and kitchen have been plastered and painted over, however some cracks are still visible.

Bathroom



Works have started to replace the original bathroom suite. No evidence of mould noted.