

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

Chamber Ref - FTS/HPC/RP/23/3870

Title number: LAN 40342

29 Bankhead Place, Airdrie, ML6 8JW (“the House”)

The Parties:

Miss Chloe Wynne, formerly 29 Bankhead Place, Airdrie, ML6 8JW (“the Tenant”)

Gracie Property LTD, 118 Motherwell Street, Airdrie, ML6 7EJ (“the Landlord”)

Tribunal Members: Mrs Nicola Weir, Legal Member and Ms Carol Jones, 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 5 August 2024 (originally dated 10 July 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 31 October 2023, which was subsequently amended, the Tenant applied 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, namely that roof tiles were missing from the roof/indent; air blocks covered from previous owner; loft insulation black due to damp; cupboard door hinges are loose and fall off every now and again. Supporting documentation was submitted with the application, including a copy tenancy agreement and proof that the Tenant had previously notified the Landlord of the defects.

2. On 12 December 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 Regulations”) issued a Notice of Acceptance of the Application. Notice of Referral to the Tribunal and details of an Inspection and Hearing fixed to take place on 27 March 2024 was issued to the parties, requesting any written representations from the parties that they wished to make in response to the application by 1 March 2024.
3. The Tenant had emailed the Tribunal on 12 February 2024 with some further information (messages from the Landlord) and indicated that she was trying to move out of the Property. She subsequently advised by email dated 14 February 2024 that she was moving out of the House on 14 March 2024 and wished to withdraw the application. Having considered the Tenant’s withdrawal, the Tribunal decided to continue with the application in terms of Paragraph 7(3) of Schedule 2 to the 2006 Act, as it contained matters which raise potential health and safety issues for any future tenants. A Minute of Continuation dated 23 February 2024 was issued by the Tribunal.
4. Mr Paul Traynor of the Landlord company did not lodge any written representations but did submit a postponement request by email on 13 February 2024 in respect of the Inspection and Hearing. He submitted proof in respect of his reasons for seeking a postponement and the Tribunal granted the postponement request.
5. A fresh Inspection and Hearing were subsequently fixed for 17 June 2024.
6. Nothing further was heard from the Landlord prior to the Inspection and Hearing.

Inspection and Hearing

7. The Tribunal Members carried out an Inspection of the House at 10 am on 17 June 2024. Mr Paul Traynor of the Landlord company was present and was accompanied by a friend, Ms Kirsty Howe. Mr Traynor indicated that there was a new tenant in the Property as from 1 June 2024. The tenant was not present but had authorised Mr Traynor to allow the Tribunal Members to inspect.

8. Following the Inspection of the House, the Tribunal held an in-person Hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT, commencing by agreement shortly after 12 noon, as opposed to the scheduled time which was 11.45am. Only Mr Paul Traynor of the Landlord company was present.
9. 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

10. The RSEO was originally dated 10 July 2024 and required the Landlord, within 6 weeks of the notification of the RSEO:-
 1. *To repair, or as necessary replace all missing or damaged roof tiles to ensure that the house is wind and watertight and in all other respects for human habitation; and*
 2. *To repair, reinstate or as necessary replace, all kitchen base and wall units, including handles, hinges and doors to ensure that these fixtures and fittings are in a reasonable state of repair and proper working order.*
11. A detailed Statement of Reasons Decision was issued dated 10 July 2024, attaching a copy Schedule of Photographs taken during the Inspection by the Ordinary (Surveyor) Member, together with the RSEO. The Decision explained the basis for the Tribunal's decision in respect of the application.
12. Following the issue of the documentation above, Mr Traynor of the Landlord company emailed the Tribunal on 12 July 2024 seeking clarification of the works to be carried out. The Tribunal Administration responded on 18 July 2024, referring Mr Traynor to the terms of the documentation and informing him that he should take his own advice in this regard.
13. Following expiry of the time period of 6 weeks specified in the RSEO, the Tribunal notified parties that a Re-inspection by the Tribunal would take place on 5 December 2024. No further correspondence was received from the Landlord prior to the Re-inspection.

Re-inspection – 5 December 2024

14. On 5 December 2024 at 10am, the Tribunal Members attended at the House for purposes of Re-inspection. The Landlord's representative, Ms Kirsty Howe, was in attendance. The new tenants were also present but did not participate in the Re-inspection. The Re-inspection took place. Ms Howe indicated that a roofer was due to attend again at the House later that day but she did not know specifically what works the roofer had been instructed to do.
15. Following the Re-inspection, a copy of the Ordinary Member's Re-inspection Report dated 6 December 2024 was issued to the Landlord, requesting any comments but no response was received. A copy of the Re-inspection Report is attached to this Decision and referred to for its terms.
16. On 17 January 2025, the Tribunal contacted the Landlord to request clarification as to whether a roofer had attended at the House following the Tribunal's Re-inspection on 5 December 2024 and carried out any further works. If so, the Landlord was asked to submit any evidence in this regard.
17. On 24 January 2025, the Landlord emailed the Tribunal confirming that the roofer had re-attended on 5 December 2024 and carried out further works to the roof. An invoice from the roofer was produced, together with some photographs showing the roof and the chimney of the House.
18. Having considered their findings on Re-Inspection and the further documentation received from the Landlord, the Tribunal was of the view that a further Hearing was not required in this matter and proceeded to make their decision.
19. The Tribunal considered whether the works stipulated in the RSEO had 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, their findings on Re-inspection and the further documentation received from the Landlord.

2. At the Re-inspection, the Landlord's representative had informed the Tribunal that a roofing contractor had carried out some unspecified works to the roof including cleaning the gutters. She had also said that the roofer was due to return to carry out further works on the day of the Re-inspection. The Tribunal observed that the gutters had been cleaned but no works to repair/replace any of the dislodged or missing tiles appeared to have been carried out. It was also noted that the ridge tiles had not been re-bedded and there remained a significant build-up of moss on the tiles to the front pitch. It was noted by the Tribunal that the Landlord had carried out works to rectify the defects in the kitchen units; doors to the units had been secured and opened and closed properly; the previously missing door to one wall-mounted unit had been re-instated; all missing handles replaced and the false drawer had been painted. It was noted that the door to the right-hand side base unit under the sink was still slightly mis-aligned and the large cupboard door remained difficult to open and close properly and the handle was still loose.
3. The Tribunal noted from the further documentation submitted by the Landlord that the outstanding roof issues appeared to have been resolved. The invoice from the roofer was dated 5 December 2024, it related to the House and specified the works that had been carried out as supply and replacement of roof tiles; clearing roof of moss; power-hosing of roof; re-pointing and re-cementing of chimney. The photographs produced by the Landlord showed the re-pointing of the chimney, the roof after replacement of the missing roof tiles, free of moss and cleaned.
4. The Tribunal determined that, although there were still some very minor issues with the kitchen finish and some of the Tribunal's observations in their Decision appeared not to have been addressed, all the issues specified in the RSEO had now been addressed satisfactorily by the works carried out to the House and that the Repairing Standard was met in these respects.
5. In 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.
6. 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
Nicola Weir, Legal Member of the Tribunal

Date: 21 February 2025



Re-inspection report



Front Elevation

Date of inspection: Thursday 5 December 2024

Reference Number : FTS/HPC/RP/23/3870

Property: 29 Bankhead Place, Airdrie ML6 8JW

Ordinary Member (surveyor): Carol L Jones

Previous Inspection: The subject property was inspected by the First-tier Tribunal for Scotland (Housing and Property Chamber) on 17 June 2024 and as a result a Repairing Standard Enforcement Order (RSEO) dated 10 July 2024 was served.

Access: The current Tenants provided access.

Weather: Cold and overcast.

In attendance: Nicola Weir, Legal Member, Carol Jones, Ordinary Member and Kirsty Howe representing the Landlord attended the inspection.

Repairing Standard Enforcement Order (RSEO) dated 10 July 2024:

The Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular, the Tribunal requires the Landlord:-

- 1) To repair, or as necessary replace all missing or damaged roof tiles to ensure that the house is wind and watertight and in all other respects for human habitation; and
- 2) To repair, reinstate or as necessary replace, all kitchen base and wall units, including handles, hinges and doors to ensure that these fixtures and fittings are in a reasonable state of repair and proper working order.

The Tribunal orders that the works specified in this Order must be carried out and completed within 6 weeks of the notification of this Order.

Works in the RSEO undertaken/outstanding - see attached photographs:

- 1) The landlord's representative informed the tribunal that a roofing contractor has carried out some unspecified works to the roof including cleaning the gutters. She furthermore said that the roofer was due to return to carry out further works on the day of this inspection. The tribunal observed that the gutters have been cleaned but no works to repair/replace any of the dislodged or missing tiles appear to have been carried out. It was also noted that the ridge tiles have not been re-bedded and there remains a significant build up of moss on the tiles to the front pitch.
- 2) The landlord has carried out works to rectify the defects in the kitchen units, doors to the units have been secured and open and close properly, the previously missing door to one wall mounted unit has been re-instated, all missing handles replaced and the false drawer has been painted. It was noted that the door to the right hand side base unit under the sink is still slightly misaligned and the large cupboard door remains difficult to open and close properly and the handle is still loose.

All photographs were taken at the re-inspection on 5 December 2024 (see schedule below).

Comments: This report will be submitted to the First-tier Tribunal for Scotland (Housing and Property Chamber) for their decision.

Carol L Jones
Ordinary Member (Surveyor)
First-tier Tribunal for Scotland (Housing and Property Chamber)

6 December 2024

Schedule of photographs taken during the re-inspection of 29 Bankhead Place, Airdrie ML6 8JW by the Ordinary member (surveyor) of the First-tier Tribunal for Scotland (Housing and Property Chamber) on the 5 December 2024.
Reference Number : FTS/HPC/RP/23/3870



Rear elevation showing roof



Rear elevation showing roof



Front elevation showing roof



Front elevation - some roof tiles showing signs of deterioration/dislodged and patches of moss



Front elevation - some roof tiles showing signs of deterioration/dislodged and patches of moss



Front elevation - some roof tiles showing signs of deterioration/dislodged and patches of moss



Kitchen - base units repaired and all handles intact



Kitchen - double base unit under sink - doors open and close properly



Kitchen - double base unit under sink - right side door misaligned



Kitchen - double base unit under sink - damage to base of interior right side unit (tenant has temporarily removed kick plates for cleaning purposes)



Kitchen - base units repaired, all handles intact, door to wall mounted unit re-instated and cover to false drawer painted



Kitchen - large cupboard - door is hard to open and close properly/ill fitting and handle loose



Kitchen - ceiling mounted carbon monoxide detector - appears not to be sited between 1 and 3 metres from the appliance (observation)