

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Section 27

Chamber Ref: FTS/HPC/RP/23/4392

16 Boswell Drive, Kinghorn, Fife, KY3 9TW (“the Property”)

The Parties:-

Miss Cristal Robinson, 16 Boswell Drive, Kinghorn, Fife, KY3 9TW (“the Applicant”)

Dr Mahmood Mughrabi, 1 Long Craigs Terrace, Kinghorn, Fife, KY3 9TA (“the Landlord”)

Tribunal Members:

Mark Thorley (Legal Member)

David Godfrey (Ordinary Member)

Decision

The tribunal determines:

(One) that the Landlord has failed to comply with a repairing standard enforcement order (RSEO) dated 26 April 2024 and that a notice of failure be served on the local authority (Section 26 (2) (a) of the Housing (Scotland) Act 2006)

(Two) that a rent relief order be made reducing the rent payable under the tenancy by 90% (section 27(2) of the Housing (Scotland) Act 2006)

Background

1. By application dated 8 December 2023, the Applicant sought a determination from the Tribunal that the Landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (the 2006 Act).
2. That a rent relief order be made reducing the rent payable under the tenancy by 90%.
3. The Applicant and Respondent are parties to a private residential tenancy in respect of the Property.

4. In the application, the Applicant set out that the Landlord had failed to comply with their duties in respect of a variety of matters as follows:
- a) The windows, especially in the upstairs bedroom, do not close properly and the safety catch on one of the windows is completely broken.
 - b) The electric heaters do not work adequately. There is no heating in any of the upstairs bedrooms. The heater in the kitchen and also in the downstairs bedroom does not work and the remainder only work sometimes.
 - c) The electrics have not been checked at all since the applicant lived there which is just over two years and the sticker on the fuse box states the last inspection was 2015.
 - d) At least one of the fire alarms is broken completely. It has no cover on it.
 - e) The boiler is currently broken. There is no gas in the property.
 - f) The bath has a crack on the side and the wood around the bottom of the bath is rotten and if any water gets onto the wood it leaks which has created a damp mouldy patch on the ceiling in the downstairs bedroom.
 - g) The staircase has missing poles in the banister which is a safety risk for the children in the property.
 - h) The carpet on the stairs in a bad condition.
 - i) The floor in the kitchen is ripped and broken in places.
 - j) The interior doors are not fitted properly and therefore cannot be shut properly in the kitchen.

Inspection 11 March 2024

5. The members of the Tribunal inspected the Property on 11 March 2024. A hearing was held on the same day.
6. The Tribunal determined to make a repairing standard enforcement order which was in the following terms:

The Landlord was required to:

- 1. To provide an up to date Electrical Installation Condition Report.
- 2. To ensure that smoke detectors are fitted throughout the property and are interlinked.
- 3. To instruct a suitably qualified contractor to make investigations and ensure that the heating/hot water system including the electric shower in the bathroom are in proper working condition.
- 4. To instruct a suitably qualified contractor to ensure that the electric wiring system including lighting and power circuits are in working order.
- 5. The work undertaken, together with a report from the relevant contractor requires to be evidenced to the Tribunal.

6. That all catches on all windows are adjusted to ensure that the windows are opening and shutting properly.
7. To make good the damage to the side panel of the bath and to the skirting adjacent to the bath.
8. To replace the missing spindle in the balustrade between the mid floor and the ground floor.
9. To replace the kitchen floor covering.
10. To ensure that the kitchen units fit with new catches where necessary.
11. To clean out the front and rear gutters to the property.
12. To fix the drainage to the rear of the property.

6.1 The Tribunal determined that the Respondent required to comply with the RSEO within a period of 28 days.

Reinspection 29 October 2024

7. The Tribunal members inspected the Property on 29 October 2024. The Tenant was present. The Landlord was not present. A reinspection report and schedule of photographs prepared by the ordinary member is attached to this decision and is referred to for its terms.
8. No works required by the RSEO had been completed.
9. The Tribunal considered what had been found at the reinspection.

Determination

10. The Tribunal had regard to Section 26 (2) of the 2006 Act:

Where the First-tier Tribunal decides that a landlord has failed to comply with the repairing standard enforcement order, the First-tier Tribunal must-

- (a) serve notice of the failure on the local authority, and*
- (b) decide whether to make a rent relief order.*

11. All of the matters from the RSEO were outstanding and the Tribunal determined to find that it had not been complied with and to serve notice of the non-compliance on the local authority in terms of Section 26 (2) (a) of the 2006 Act.
12. In terms of Section 26 (2) (b) of the 2006 Act, the Tribunal was then required to consider making a rent relief order.
13. The Landlord has had an opportunity to comply with the RSEO and has not done so and has not sought more time to comply or engaged with the Tribunal process.

14. The Tribunal determined that a rent relief order should be made and that the rent should be reduced by 90%

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.

M Thorley

legal member of Tribunal.
10 February 2025