

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement relative to Certificate of Completion of Work issued by the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal')

Under section 60 of the Housing (Scotland) Act 2006 ("the 2006 Act")

Case Reference Number: FTS/HPC/RP/24/2252

Re: 15/6 Moray Park Terrace, Edinburgh EH7 5TF ("the house")

Land Register Title No: MID12604

The Parties:-

Mrs Urszula Molenda, residing at the house ("the tenant")

PBD Property Ltd, 24 West Nicolson Street, Edinburgh EH8 9DD ("the landlord")

Tribunal Members: Sarah O'Neill (Chairperson) and Andrew McFarlane (Ordinary (Surveyor) Member)

Background

1. The Tribunal issued a Repairing Standard Enforcement Order (RSEO) in relation to the house on 28 October 2024. The RSEO was sent to the parties on 29 October 2024. The RSEO required the landlord to:
 - 1) Provide an up to date gas safety certificate in respect of the house by a Gas Safe registered engineer, showing that all gas installations and appliances, including the boiler and water heating system, within the house, have been checked and are working safely.
 - 2) Engage an appropriate and suitable qualified specialist to examine the gas fired central heating boiler and carry out such work as necessary to ensure that heating and a supply of domestic hot water is provided and that these are in a reasonable state of repair and in full working order.
 - 3) Repair or replace the oven door, or if not possible replace the entire oven, to leave it in a reasonable state of repair and in full working order.

- 4) Repair or replace the shower tray in the en-suite shower room to ensure that the shower is in a reasonable state of repair and in full working order.
- 5) Engage suitably qualified contractors to:
 - a) inspect all windows, except the two narrow windows, one in the kitchen and one in living room, and overhaul, repair or replace seals to the opening sashes where necessary to ensure that the windows are wind and watertight.
 - b) inspect all trickle vents and overhaul, repair or replace to leave these in a reasonable state of repair and in proper working order.
 - c) inspect all mechanical extract ventilation units and overhaul, repair or replace to leave these in a reasonable state of repair and in proper working order
- 6) Install interlinked smoke and heat detectors within the property, ensuring that they are fully functional and located and powered in accordance with the current requirements set out in [Scottish Government guidance on fire detection in private rented properties](#)

The Tribunal ordered that all of the works specified in the RSEO must be carried out and completed within the period of 3 months from the date of service of the RSEO.

2. The Tribunal carried out a re-inspection of the house on 30 January 2025. The Tribunal found that the works required in terms of items 2,4, 5 (b) and (c), 6, 7 and 8 of the RSEO had been undertaken.
3. Regarding item 1, a gas safety certificate had been mentioned in correspondence from the tenant's representative, but the Tribunal had not received a copy as at the date of the re-inspection. The landlord sent a copy of a gas safety certificate dated 23 October 2024 to the Tribunal on the afternoon of 30 January 2025. The certificate showed that the gas installation, namely the combi boiler, was satisfactory and working safely.
4. In accordance with standard practice, all gas safety certificates are checked by the Tribunal to establish that the gas safety engineer who issued it is registered. In this case, the engineer could not be found on the online checker. The Tribunal made enquiries with the landlord. On 11 February 2025, the landlord provided confirmation from the Gas Safe Register that the engineer had been registered at the time the certificate was issued, but had allowed his registration to lapse and was in the process of becoming re-registered.
5. The re-inspection report was sent to the parties on 26 February 2025. The parties were asked to send any response to the Tribunal by 12 March 2025. A response was received from Mr Keith Owens on behalf of the landlord on 28 February 2025. In his response, Mr Owens stated that all of the works had been

carried out aside from item 3. He said that a new oven had to be specially ordered as it was integral and was not a standard width. The oven was due to be installed on 4 March 2025. Mr Owens also expressed some concerns about the method of testing used by the surveyor member of the Tribunal regarding the window seals (item 5 (a)).

6. A response was received from the tenant's representative, Miss Sophie Bennett, on 6 March 2025. Miss Bennett stated that the tenant had advised that the oven had been replaced on 4 March 2025, and acknowledged that the remaining works have now been carried out.
7. Miss Bennett stated, however, that the date for completion of the repairs was fixed for 21 January 2025 and noted that the tenant had confirmed on 28 January 2025 that the oven had not been repaired, the trickle vents had not been repaired/ replaced, and that neither the ventilation units nor the shower tray had been repaired/ replaced. Therefore many of the repairs had taken place outwith the enforcement period for the RSEO, thus constituting a breach of the RSEO. Miss Bennett submitted that as the landlord had failed to meet the Tolerable Standard until compelled to do so via Tribunal intervention, it was appropriate that a Rent Relief Order should be issued.

Reasons for decision

8. In making its decision on whether the landlord has complied with the RSEO, the Tribunal took into account all of the evidence before it. In its re-inspection report, the Tribunal found that the works required in terms of items 2,4, 5 (b) and (c), 6, 7 and 8 of the RSEO had been undertaken. Having considered the gas safety certificate dated 23 October 2024 and Mr Owens' email of 11 February 2025 regarding the gas engineer's registration, the Tribunal was also satisfied that item 1 had been complied with.
9. With regard to item 3, the Tribunal noted that it was unclear why the new oven had not been ordered earlier by the landlord, given that the RSEO was issued on 28 October 2024. It was satisfied, however, that the oven had been replaced on 4 March 2025.
10. With reference to Mr Owens' comments in relation to item 5 (a) regarding the window seals, the Tribunal noted that Mr Owens had questioned the surveyor member's method of testing at the re-inspection by pushing a business card into the seal. At the initial inspection, the surveyor member found that the card passed easily between seal and frame in many areas. On re-inspection it did not. In the areas illustrated in the re-inspection report, the card passed the seal with next to no pressure compared with all other areas where the seal was so tight that card could not pass.

11. The Tribunal noted that Annex B of the [Repairing Standard Statutory Guidance issued by the Scottish Government](#) states (at item B3) that: *"...a house should be free from draughts and leaks under current climatic conditions of the area where it was built. Windtight is not the same as airtight and needs to be compatible with the need for adequate ventilation."* In light of this, the Tribunal accepts that the works carried out by the landlord are sufficient to eliminate the draughts which the tenant had complained of in her application.
12. The Tribunal also noted that in their responses to the re-inspection report, both parties accepted that the works had all been completed as at 4 March 2025.
13. The Tribunal gave consideration to the arguments made on the tenant's behalf by Miss Bennett regarding her request for a rent relief order. The Tribunal noted firstly that the deadline for compliance with the RSEO was in fact 29 January 2025, three months after the RSEO was served on the parties. Further to the Tribunal's re-inspection the following day, it found that all items in the RSEO other than items 1, 3 and 5 (a) had been completed at that time. For the reasons explained above, it was satisfied shortly afterwards that both items 1 and 5 (a) had been complied with.
14. While the Tribunal agrees that the oven was not replaced within the required timescale, it can only make a rent relief order where it has decided that a landlord has failed to comply with an RSEO (section 27 (2) of the 2006 Act). The Tribunal has not made such a decision. The Tribunal considers that the landlord had complied with all items in the RSEO as at 4 March 2025.
15. While it may have been possible for the Tribunal to have determined at some point between 30 January and 4 March 2025 (having allowed time for the parties to provide submissions) that the landlord had failed to comply with the RSEO, any rent relief order which it may have made would still not have taken effect as at the date of this decision. In terms of sections 63 (4) and (5) of the 2006 Act, a rent relief order does not take effect for a period of 28 days after the last date on which the decision to make the order may be appealed (i.e. 30 days after the decision is sent to the parties).
16. Having taken into account the findings of the re-inspection report and the various items of correspondence received from the parties, as outlined above, the Tribunal is satisfied that the required works had been done. The Tribunal therefore determines on the basis of all the evidence before it that the works required by the RSEO have been completed satisfactorily, and that the appropriate Certificate of Completion in terms of section 60 of the Act should be issued.

Rights 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.

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.

S O'Neill

Signed.....
Sarah O'Neill, Chairperson

Date: 19 March 2025