

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision under sections 27(4) and 60 of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/RP/16/0003

Subjects at G/R, 29 Park Avenue, Dundee, DD4 6NE registered until Title Number ANG25904 (“the House”)

The Parties:-

Mr Lee Eppy, residing at Flat G/R, 29 Park Avenue, Dundee, DD4 6NE (“the former Tenant”)

and

Caledonian Investments No 1 LLP, 3 Windmill Road, St Andrews, KY16 9JJ (“the Landlord”) whose agent is Pavillion Properties, India Buildings, 86 Bell Street, Dundee, DD1 1HN (“the Landlord’s Agent”)

The Tribunal:-

Mrs Ruth O’Hare (Legal Member)

Mrs Debbie Scott (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) unanimously determined that the works required by the Repairing Standard Enforcement Order (“RSEO”) had been completed and resolved to issue a Certificate of Completion of Work and revoke the Rent Relief Order.

Background

1. Reference is made to the decision of the Private Rented Housing Committee (“the Committee”) dated 20 June 2016 which determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act. The Tribunal accordingly made a Repairing Standard Enforcement Order requiring the Landlord to carry out the following works:-
 - a. Repair the front door to the communal hallway pertaining to the property by fitting appropriate door shutters and a proper lock;
 - b. Repair and reinstate the floorboards in the kitchen;

- c. Instruct a joinery contractor to carry out a full investigation of the sub-floor area prior to the repair and reinstatement of the floorboards and carry out such works as are necessary to address any identified defects;
- d. Install new floor coverings in the kitchen; and
- e. Carry out all works required to make good decoration in the property following the above works.

The RSEO gave the Landlord eight weeks to carry out the works.

2. Reference is made to the decision of the Committee dated 14 November 2016 which determined that the Landlord had failed to comply with the RSEO and that a Rent Relief Order be issued.
3. On 1st December 2016, jurisdiction in respect of the application passed to the Tribunal.
4. The Landlord subsequently appealed the decision of the Committee to the Upper-tier Tribunal. On 13 July 2017 the Upper-tier Tribunal dismissed the appeal upon the Landlord's request. On 12 September 2017 the Tribunal received notification from the Landlord that the refurbishment of the property had been completed.
5. On 13 October 2017 the Ordinary Member re-inspected the property. A copy of the re-inspection report is produced herewith. It was noted that the property was vacant, the tenancy having been terminated. The report concluded that the majority of the works required had been completed. However, the communal security system was not yet operational and the damp and timber specialist report had not been produced.
6. The re-inspection report was subsequently circulated to the Landlord and his agent. By email dated 3 December 2017 the Landlord's Agent confirmed that the new door and communal entry system had been installed however he was liaising with the other owners in the building prior to activation. The door hinge would be adjusted to prevent noise when closing.
7. The Landlord's Agent also provided the Tribunal with a copy of a report dated 16 November 2017 from Morgan Timber Preservation confirming that no damp treatment was required and intimated that he did not wish to attend a hearing. The Tribunal determined it had sufficient information to make a determination without the requirement for a further hearing.

Reasons for the decision

8. The Tribunal was satisfied having regard to the findings of the re-inspection and the documents submitted by the Landlord that the substantive works required by the RSEO had been completed. Whilst the door entry system had not yet been activated and some adjustment was still required to the door hinge, the Tribunal considered these issues both to be of a minor nature. Accordingly the Tribunal therefore determined that a certificate of completion should be issued.

9. Having determined that the RSEO had been complied with, the Tribunal must revoke the Rent Relief Order under section 27(4) of the Housing (Scotland) Act 2006. The Rent Relief Order is therefore revoked.

10. The decision of the Tribunal was unanimous.

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.

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

Ruth O'Hare
Chairperson

13 February 2018