

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Certificate of completion: Housing (Scotland) Act 2006 Section 60

Chamber Reference Number: FTS/HPC/RP/20/0084

Title Number GLA53309

Flat 3/1 123 Deanston Drive, Glasgow. G41 3LJ ("the property")

The Parties:

Dr Johanna Jokio, Flat 3/1 123 Deanston Drive, Glasgow, G41 3LJ ("the former Tenant")

Fiona Lambert Fraser, 10 Falcourt Close, Sutton, Surrey, SM1 2RQ ("the Landlord")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') hereby certifies that the work required by the **Repairing Standard Enforcement Order** relative to the Property dated 18 March 2020 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

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.

In witness whereof these presents type written are executed by Josephine Bonnar, Legal Member of the Tribunal at Motherwell on 2 August 2021 before this witness:-

G Bonnar

Witness

J Bonnar

Legal Member

Gerard Bonnar
1 Carlton Place, Glasgow

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision: Section 60 Housing (Scotland) Act 2006 (“the Act”)

Chamber Reference Number: FTS/HPC/RP/20/0084

Title Number GLA53309

Flat 3/1 123 Deanston Drive, Glasgow. G41 3LJ (“the Property”)

The Parties:

Dr Johanna Jokio, Flat 3/1 123 Deanston Drive, Glasgow, G41 3LJ (“the former Tenant”)

Fiona Lambert Fraser, 10 Falcourt Close, Sutton, Surrey, SM1 2RQ (“the Landlord”)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order (“RSEO”) relative to the property dated 18 March 2020, determined that the Landlord has complied with the order and that a certificate of completion to that effect should be issued.

The Tribunal comprised: -

Mrs Josephine Bonnar, Legal Member

Ms Carol Jones, Ordinary Member

Background

1. By application received on 13 January 2020 the former Tenant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The Application stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the house meets the repairing standard. The Tenant stated that the Landlord has failed to ensure that (i) The house is wind and watertight and in all other respects reasonably fit for human habitation, and (ii) Any fixtures, fittings and appliances supplied by the Landlord under the tenancy are in a reasonable state of repair and in proper working order. Specifically, the Tenant complained that the bathroom was very cold due to draughts from the windows and a hole on the outside wall left unfilled from an old toilet pipe, increasing mould on the bathroom ceiling and the bathroom door cover detaching from its frame.
3. The Tribunal inspected the property on 9 March 2020. Thereafter the Tribunal held a hearing at Glasgow Tribunal Centre, York Street, Glasgow. Following the hearing the Tribunal issued a RSEO. In terms of the RSEO the Landlord is required, (i) To instruct a suitably qualified window contractor to inspect the bathroom windows at the property and carry out any necessary repairs to ensure that the property is wind and watertight and that the windows are in proper working order; or replace the windows, (ii) To complete the repair to the hole in the external bathroom wall, remove the back tape and ensure that the cover over the hole is properly secured and excludes draughts, (iii) To instruct a suitably qualified contractor to inspect the towel rail and carry out any necessary repairs to ensure that it generates sufficient heat or replace the towel rail, and (iv) To replace the bathroom door and all associated fittings to ensure it is in proper working order. The work was to be completed within 4 weeks of the Order being issued.
4. On 13 April 2020, the Tribunal determined that the RSEO should be varied by extending the time for completion of the work until 20 June 2020. On 19 June 2020, the Tribunal determined that the RSEO should be further varied by extending the time for completion of the work until 17 July 2020.
5. Under normal circumstances the Tribunal would then have arranged for the Ordinary Member to carry out a re-inspection of the property to assist in the decision by the Tribunal on compliance by the Landlord with the RSEO. Unfortunately, this was not possible, due to the continuing effects of the COVID 19 pandemic. In the

circumstances, a case management discussion (“CMD”) was arranged, to discuss procedure in the case and to ascertain if a re-inspection was required or if other evidence was available.

6. A CMD took place by telephone conference call on 21 January 2021 at 10am. The former tenant participated, and the Landlord was represented by Ms Mitchell. The former tenant advised the Tribunal that contractors had installed a new bathroom door, fitted a new cover over the hole in the wall and adjusted the heated towel rail. She confirmed that the new door was satisfactory, that the hole in the wall no longer let in draughts and the towel rail heated up properly to an acceptable level. The handles on the windows had also been fixed. However, a contractor had inspected the windows and said that the seals were fine. This was not satisfactory as the windows were still draughty and the bathroom is very cold as a result. Ms Mitchell advised the Tribunal that all the work specified in the RSEO has been completed. She further advised that the window seals had been checked and did not need repaired or replaced. She stated that she had submitted copies of invoices for the repair work to the Tribunal. As these had not been received, she confirmed that they could be re-submitted by email. The Tribunal decided to continue the matter to a further CMD. The Landlord was directed to lodge copies of the invoices for the repair work and replacement door and hole cover. The Tenant was directed to lodge photographs of the new door, the windows, the cover over the hole and the towel rail. The Landlord was also advised to consider instructing a different window contractor to inspect the windows and provide a short report on their condition and confirm whether any remedial work is recommended to address the issue of the draughts.

7. On 21 and 22 January 2021 Ms Mitchell lodged an email from a contractor confirming that the towel rail had been checked and was working, an invoice for the new bathroom door and the hatch over the hole in the wall and an invoice for the towel rail which states that the system was drained, and the rail checked. She referred to an invoice for the handles but did not provide this. She confirmed that the Landlord was not prepared to instruct a second contractor to inspect the windows. On 25 and 29 January 2021 Dr Jokio submitted photographs of the towel rail, the new door, the cover over the hole and the windows.

8. A further CMD took place by telephone conference call on 26 February 2021 at 10am. The Tenant participated and the Landlord was represented again by Ms Mitchell.

9. The former tenant advised the Tribunal that there was still a strong draught from the windows and that the bathroom had been freezing during the bad weather since the last CMD. She stated that she could feel the wind coming through the window. She confirmed that the window handles are now in working order. The Tribunal asked Ms Mitchell about the failure to provide an invoice for the window handles. She advised that the contractor who fitted the door and the cover over the hole also looked at the windows. He was able to make a small adjustment to the handles but did not make a charge for this, so it is not mentioned in his invoice. The contractor also stated verbally that the windows were fine. Ms Mitchell also advised that the Landlord had previously declined to arrange for a second contractor to inspect the windows. She has sent a further email to her but not yet received a response.

10. The Tribunal noted that the Landlord had provided no evidence regarding the windows or compliance with Part 1 of the RSEO. Although the Tenant had confirmed that the window handles were now working, she still complained of draughts from the windows. It was conceded by the Landlord that no work to address this complaint has been carried out or any evidence provided regarding the current condition of the windows. The Tribunal therefore determined that a re-inspection of the property would be required before a decision could be made on compliance with Part 1 of the RSEO. The Tribunal noted that the Landlord may submit further evidence and/or arrange for a further contractor to look at the windows prior to the re-inspection taking place. Should further evidence be provided, the Tribunal would review this and consider whether a re-inspection was still necessary.

11. The parties were notified that a re-inspection would take place on 30 July 2021 at 11.30. Prior to the re-inspection taking place the former tenant advised that she would be vacating the property on 30 June 2021. The letting agent confirmed that they would provide access. They also submitted photographs of the windows, said that they had been re-sealed and referred to an invoice for the work, although this was not provided.

The re-inspection.

12. The Tribunal re-inspected the property on 30 July 2021 at 11.30am. Access was provided by Mrs Duncan. At the re-inspection, Mrs Duncan provided the Tribunal with further copies of the photographs which had been submitted and a copy of an invoice from JR Joinery and Glazing Services. This indicates that the contractor removed the window sash, re-sealed the window frame with silicone and re-fitted the sash on 9 July 2021. The Tribunal noted that the right-hand window has been re-sealed externally with silicone and that the window handles now operate properly. No draughts were detected when the windows were closed, although the weather was warm with no wind. The Tribunal also noted that the hole in the external

bathroom wall has been repaired and a new cover is in place which is properly secured to the wall. A new bathroom door has been fitted, which opens and closes properly. A copy of the re-inspection report is attached to this decision.

Reason for decision

9. The Tribunal considered the condition of the property at re-inspection and the evidence submitted by the Landlord since the RSEO was issued.

The windows

10. The Tribunal notes that the former tenant confirmed at the CMD that the window handles had been adjusted by a contractor and that the windows opened and closed properly, following this repair. At the inspection the Tribunal noted that both windows now operate properly. At both CMDs the former tenant advised that the windows were still very draughty, causing the bathroom to be very cold. The Landlord's position was that the windows did not require repair. Since the former tenant vacated the property, one of the windows has been re-sealed externally and the Tribunal noted no evidence of draughts at re-inspection. No information regarding the effectiveness of the repair is available as the property is currently unoccupied. However, the Tribunal notes that the Landlord has now taken steps to address the complaint and is satisfied therefore that she has now complied with Part 1 of the RSEO.

Towel rail, hole in wall and bathroom door

11. At the first CMD the former tenant advised the Tribunal that the Landlord had arranged for a new bathroom door to be fitted, the hole in the wall to be properly sealed and the towel rail repaired. She confirmed that all three complaints had been resolved to her satisfaction. The Tribunal was also provided with evidence of this work in the form of invoices from contractors and photographs. At the inspection the Tribunal noted that the new bathroom door operates properly and that the hole in the wall has been covered with a secure cover. The Tribunal is therefore satisfied that the landlord has complied with parts 2 to 4 of the RSEO.

Decision

12. The Tribunal determined that the Landlord has complied with the RSEO and that a certificate of compliance should be issued.

13. 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.

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G Bonnar

Josephine Bonnar, Legal Member:

Josephine Bonnar, Legal Member

2 August 2021