

Housing and Property Chamber First-tier Tribunal for Scotland



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

Certificate of Completion of Work: Housing (Scotland) Act 2006 Section 60

Chamber Ref: FTS/HPC/RP/17/0420

Title no/Sasines Description: GLA23599

Flat 2/1, 524 Paisley Road West, Glasgow, G51 1RN ("the house")

The Parties:-

Mrs Gullalai Miankhail, formerly residing at the House ("the Tenant")

Ms Shabana Bakhsh, care of Etimon, Trident House, 175 Renfrew Road, Paisley, PA3 4EF ("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 14 March 2018, as varied by Variation dated 26 April 2018, 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 are executed by Nicola Weir, Legal Member of the Tribunal, at Glasgow, on 13 September 2018 in the presence of the undernoted witness:-

F.T Weir

Nicola Weir

_____ witness

_____ Legal Member

_____ name in full

40 2 FIELD BND Address
BRNG, HB23 4LN

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

Chamber Ref: FTS/HPC/RP/17/0420

Title no/Sasines Description: GLA23599

Flat 2/1, 524 Paisley Road West, Glasgow, G51 1RN (“the house”)

The Parties:-

Mrs Gullalai Miankhail, formerly residing at the house (“the Tenant”)

Ms Shabana Bakhsh, care of Etimon, Trident House, 175 Renfrew Road, Paisley, PA3 4EF (“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 14 March 2018, as varied by Variation of the RSEO dated 26 April 2018, determined that the Landlord has complied with the RSEO and that a Certificate of Completion to that effect should be issued.

The Tribunal comprised:-

Nicola Weir, Legal Member

Mike Links, Ordinary Member

Background

1. By Application received on 9 November 2017, the Tenant applied to 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”). The Application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the house meets the following parts of the repairing standard in terms of Section 13 of the Act, namely that the house is wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a); that any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working

order (section 13(1)(d); and that the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health (Section 13(1)(g) .

In particular, the Tenant stated "They have not fixed the dishwasher since we moved in, 2013 August. The kitchen door is broken and they are yet to fix it. There is water dripping from the ceiling in the bedroom. There is also water coming from the ceiling in Bedroom 2 and water is coming from the window in bedroom 2 and the living room. 3 kitchen drawers are broken. There are cracks in the ceiling and walls throughout the house. Also the paint." As regards the work which needs to be done, the Tenant also stated "They need to fix the dishwasher, the paintwork of the house, the carpets. The kitchen door. The water that is coming in the master bedroom, bedroom 2 and the living room. The cracks in the walls and ceilings. Under the kitchen drawers."

Apart from the application form, the Tenant also submitted as part of her Application copy Landlord notification of repair letter and certificate of posting of same dated 7 November 2017; copy letters from Govan Law Centre to Etimon Ltd ("the Landlord's agent") on her behalf regarding repairs issues dated 3 and 11 October 2017 and copy handwritten note dated 17 October 2017 regarding kitchen door repairs which appears to have been signed on behalf of the Landlord's agent. The Tenant's Application was unsigned and no tenancy agreement was included. She was written to regarding these matters and subsequently submitted a signed form, tenancy agreement and AT5.

2. On 10 January 2018, a Convener of the Tribunal, acting under delegated powers in terms of 23A of the Act made a decision to refer the Application, under section 23(1) of the Act, to a Tribunal. Notice of Referral in terms of Schedule 2, Paragraph 1 of the Act was served upon both the Landlord and the Tenant by letters dated 18 January 2018, stipulating that any written representations should be lodged with the Tribunal by 8 February 2018.
3. Following service of the Notice of Referral, written representations were submitted on behalf of the Landlord by the Landlord's agent, namely email dated 5 February 2018, to which was attached an earlier email dated 2 February 2018 to the Tenant from the Landlord's agent concerning the condition of the walls and the carpets and to which was attached an extract from an inventory inspection dated 26 July 2013, photographs showing some of the rooms in the House (undated) and a copy quotation from a contractor dated 1 February 2018 for plastering and painting works to the walls and ceilings. No written representations were submitted by the Tenant.
4. The Tribunal inspected the house on the morning of 26 February 2018. In addition to the Members of the Tribunal, Ms Molly Bell, Tribunal Clerk was present. The Tenant provided access to the house and was present throughout. She was joined by a female friend who arrived during the

inspection but took no part in the proceedings other than as a supporter. Mr Chris Thomas, Lettings Manager for the Landlord's agent was also in attendance.

5. Following the inspection of the house, the Tribunal held a Hearing at Wellington House, 134-136 Wellington Street, Glasgow, G2 2XL. The same persons who had attended at the Inspection attended the Hearing.
6. Following the Hearing, the Tribunal proceeded to make an RSEO dated 14 March 2018 in relation to the House. In terms of the RSEO, the Landlord was required:- (1)To produce a report from a suitably qualified window installation company confirming that the living room and bedroom windows of the House are wind and watertight; and thereafter, if said report states that any of said windows are not wind and watertight, to repair or, as necessary, replace same to ensure that those windows are wind and watertight; (2)To repair or, as necessary, replace the three kitchen drawers, the wooden housing around the central heating boiler in the kitchen, the kitchen cupboard door handle and the kick plate under said kitchen cupboard to ensure that same are in a reasonable state of repair and in proper working order; (3)To make good the areas of the master bedroom ceiling, walls and cornice and the second bedroom ceiling which have been damaged and stained as a result of water penetration from roof defects by re-decoration or, as necessary, repair to give a satisfactory finish to ensure that the House is reasonably fit for human habitation; and (4)To install a carbon monoxide (CO) detection system, positioned in accordance with manufacturers' instructions and current Scottish government guidance, to ensure that the House has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. The Landlord was required to complete the work within 6 weeks of the date of service of the RSEO.
7. On 4 April 2018, the Landlord's agent emailed the Tribunal to advise that the Tenant had recently vacated the House and general refurbishment works were planned, with an estimated timescale for completion of 6 to 8 weeks. The Tenant confirmed by email on 23 April 2018 that the Tenant had vacated the House at the end of March 2018. The Tribunal considered the request on behalf of the Landlord for additional time to complete the works required by the RSEO. The Tribunal determined that further time should be allowed and that the RSEO should be varied by extending the time for completion of the work until 18 June 2018. A Variation of the RSEO to this extent was issued dated 26 April 2018.
8. The Landlord's agent subsequently emailed the Tribunal to advise that the Landlord was in the process of selling the House to a third party who was planning to complete the proposed refurbishment works.
9. A Re-inspection of the House by the Ordinary Member was scheduled to take place on 2 July 2018. However, no-one was present to allow access to the House and the Re-inspection did not take place.

10. A further Re-inspection was scheduled to take place on 16 August 2018. The Landlord's agent and a representative of the proposed purchaser were present. All works required in terms of the RSEO were still outstanding. Reference is made to the Re-inspection Report by the Ordinary Member dated 16 August 2018, a copy of which is attached to this Decision and signed as relative hereto.
11. Following the issue of the Re-inspection report, the Landlord's agent emailed the Tribunal on 20 August 2018 attaching a report from Arrow Homecare dated 12 April 2018 confirming that all windows in the House had been inspected and were wind and watertight, in a reasonable condition and operational. Photographs were also submitted showing that the repairs to the kitchen had been carried out and that a carbon monoxide detector had been installed. The Landlord's agent sent a further email to the Tribunal dated 23 August 2018 with further photographs attached, showing that the re-decoration works required to the bedroom ceiling and walls had been carried out. In view of these further representations and enclosures, the Tribunal was of the view that a further Re-inspection by the Ordinary Member was not necessary and proceeded to make their decision.

Reasons for decision

12. The Tribunal was satisfied from the Landlord's agent's further representations and from their consideration of the terms of the report on the windows and the photographs submitted that all works required in terms of the RSEO had been completed satisfactorily and that the RSEO had now been complied with by the Landlord. Accordingly, the Tribunal was of the view that a certificate of Completion to that effect should now be issued.

Decision

13. The Tribunal determined that the Landlord had complied with the RSEO and that a Certificate of Completion to that effect should now be issued.
14. The decision of the Tribunal was 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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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.

Nicola Weir

Signed..... Date: 13 September 2018
Nicola Weir, Legal Member of the Tribunal

Glasgow, 13th September 2018

This is the Re-inspection Report referred to in the attached
Statement of Decision of even date herewith.

Nicola Weir

Housing and Property Chamber First-tier Tribunal for Scotland



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

RE-INSPECTION REPORT



PROPERTY: Flat 2/1, 524 Paisley Road West, Glasgow G51 1RN

HPC REF No: FTS/HPC/RP/17/0420

SURVEYOR: Mike Links

IN ATTENDANCE: John Teevan (Etimon-Landlord's agent)

Claire Purdie (Representing Mr G Vinas of Mansewood Dev)

WEATHER: Overcast with sunny intervals.

ACCESS: I re-inspected the property on Thursday 16th August, 2018 at 10.10am.

RSEO:

The windows remain as seen on the 26th February 2018.

Item (2) The repairs in the kitchen have not been undertaken.



16 Aug 2018



26 Feb 2018

Item (3) The repairs to the decoration have not been undertaken.



16 Aug 2018



26 Feb 2018



16 Aug 2018



26 Feb 2018

Item (4) The CO detector remains as previously seen. It was not operating when tested..



16 Aug 2018



26 Feb 2018

WORKS IN RSEO UNDERTAKEN: None.:

RECOMMENDATION:

Once the re-inspection report is forwarded to the Landlord for comment the Tribunal will then decide what further action is required.

Mike Links

Ordinary Member (Surveyor)

Housing and Property Chamber

Date: 16th August 2018