

Housing and Property Chamber First-tier Tribunal for Scotland



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

**STATEMENT OF DECISION OF THE FIRST-TIER TRIBUNAL (HOUSING AND
PROPERTY CHAMBER)
UNDER SECTION 26
OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

Property at 23 Sunnybraes Terrace, Steelend, Fife KY12 9NE (hereinafter referred to as "the House")

The Parties:

Miss Danielle Paul ("the Tenant")

Mordecai (otherwise Mordechai) Bamberger, 15 Belmont Drive, Glasgow G46 7NZ and Mordela Bamberger, 86 Hillside Road, London N15 6NB ("the Landlord")

Chamber Ref: FTS/HPC/RP/22/0442

DECISION

The Tribunal decided that the Landlord has failed to comply with the Repairing Standard Enforcement Order of 23 June 2022 ("the RSEO").

Tribunal Members

John McHugh, Chairperson
Geraldine Wooley, Ordinary (Surveyor) Member

Reasons for the Decision

The requirements of the RSEO are as follows:

"The Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular, the Tribunal requires the Landlord to:

1 Replace the cracked lintel above the living room window with a lintel which is able to bear the load of the building as appropriate.

2 Replace or repair all windows in the House such that they are capable of being open and closed as intended; have working, unbroken handles; and are draught proof.

3 Commission a report from an appropriately qualified person such as a Chartered Surveyor or a structural engineer as to the causes of penetrating dampness, paying particular attention to the integrity of any damp proof course present and the condition of the concrete slab sub-floor. The report should include recommendations as to ways of eliminating the damp problem and ensuring the property is structurally sound.

4 In accordance with the report's recommendations, take measures to render the House free from penetrating dampness and provide evidence of same in the form of detailed estimates, invoices and guarantees from appropriately registered companies.

5 Replace the bedroom carpets.

6 Remove all mould and redecorate all affected areas.

7 Repair or replace any damaged rainwater goods.

The Tribunal orders that the works specified in this Order must be carried out and completed within 60 days from the date of service of this Notice."

The Tribunal had originally been due to carry out a re-inspection on 26 October 2022. This was postponed at the request of the Landlord who had emailed on 23 October 2022 to indicate that he awaited a timber report and that the works had not been completed. A new re-inspection date of 9 December 2022 was fixed and intimated to the Landlord on 11 November 2022.

The Tribunal carried out a re-inspection on 9 December 2022. The surveyor member's report was issued to the Landlord for comment.

It was found that the works required by paragraphs 2-7 had not been completed.

The Landlord has emailed the Tribunal in response to the report of the re-inspection to advise that he had previously advised that the re-inspection should not proceed because the works had not been completed and that it was difficult to secure the services of builders. The Tribunal has no record of any such correspondence from

the Landlord post-dating 11 November 2022. This may be a reference to the landlord's email of 23 October 2022.

On the basis of the re-inspection findings, and in particular the failure to comply with paragraphs 3 and 4, the Tribunal determined that there had been a failure to comply with the RSEO.

Decision

The Tribunal, considering the terms of section 26 of the Act, decided that the Landlord has failed to comply with the Repairing Standard Enforcement Order.

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 seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

John McHugh
Chairperson

Date: 19 December 2022