

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber)
RENT RELIEF ORDER: Housing (Scotland) Act 2006 Section 27

Chamber Ref: FTS/HPC/RP/16/1014

Property: the ground floor flat situated at and known as 10 Harefield Drive, Glasgow, G14 9AW, being the subjects registered in the Land Register of Scotland under Title Number: GLA20538 ("The Property")

The Parties:-

Ms Jacqueline Canning, residing at 10 Harefield Drive, Glasgow, G14 9AW ("the Tenant")

and

Mr Rohit Sajwan and Mrs Seema Sajwan, both formerly residing at Flat 2/2, 1030 Argyle Street, Glasgow, G3 8LX, and now residing at 857 Sector 22, Faridabad Haryana India, 121005, India ("the Landlords")

NOTICE TO Mr Rohit Sajwan and Mrs Seema Sajwan, both formerly residing at Flat 2/2, 1030 Argyle Street, Glasgow, G3 8LX and now residing at 857 Sector 22, Faridabad Haryana India, 121005, India ("the Landlords")

Whereas in terms of its decision dated 3rd July 2017, the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order ("RSEO") in relation to the house made by the tribunal.

The tribunal determined to make a Rent Relief Order ("RRO") in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 10% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the RRO may be appealed under section 64 of the said Act.

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.

If a party seeks permission to appeal and this permission is refused, the decision will be treated as having effect from the day on which the refusal is made (unless the party then seeks permission from the Upper Tribunal to appeal the decision. In that event, if permission is refused, the decision is treated as having effect from the day on which the Upper Tribunal refuses the permission).

If permission for an appeal against the decision of the tribunal is granted, then the effect of the decision and the RRO is suspended until the appeal is abandoned or finally determined by the Upper Tribunal. In the event that the decision is upheld, then the decision will be treated as having effect from the day on which the appeal is abandoned or so determined. The RRO will be effective 28 days from the date on which the appeal is abandoned or so determined.

If an application for permission to appeal is received, then the tribunal will notify you of this and the eventual outcome of that application and any subsequent appeal.

Andrew Cowan

Signed

Andrew Cowan, Chairperson

Donna Jones

Date

3rd July 2017

Witness

Donna Jones, Secretary, 7 West George Street, Glasgow, G2 1BA

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber) STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 26

Chamber Ref: FTS/HPC/RP/16/1014

Property: the ground floor flat situated at and known as 10 Harefield Drive, Glasgow, G14 9AW, being the subjects registered in the Land Register of Scotland under Title Number: GLA20538 ("The Property")

The Parties:-

Ms Jacqueline Canning, residing at 10 Harefield Drive, Glasgow, G14 9AW ("the Tenant")

and

Mr Rohit Sajwan and Mrs Seema Sajwan, both formerly residing at Flat 2/2, 1030 Argyle Street, Glasgow, G3 8LX, and now residing at 857 Sector 22, Faridabad Haryana India, 121005, India ("the Landlords")

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') has now determined that the Landlord has failed to fully comply with the Repairing Standard Enforcement Order ("RSEO") dated 10 February 2017, and further has determined that notice of that failure should be served on the Local Authority in which the property is situated in accordance with Section 26(2)(a) of the Housing (Scotland) Act 2006 ("the Act"). The Tribunal further determined to make a Rent Relief Order in terms of Section 26(2)(b) of the Act, which order shall take effect 28 days after the last date on which the decision to make the RRO may be appealed under Section 64 of the Act.

The Tribunal consisted of:-

Mr Andrew Cowan – Chairperson
Mr Nick Allan – Ordinary Member (Surveyor)

Background

1. The First-tier Tribunal ("The Tribunal") issued a Repairing Standard Enforcement Order ("RSEO") in respect of the Property dated 10 February 2017.
2. On 11 April 2017, the Ordinary Member of the Tribunal carried out a re-inspection of the Property to determine whether the Landlord had, or had not, complied with the terms of the RSEO. At the time of that re-inspection it was noted that the Landlord had carried out some work to the Property, but that the majority of the issues which required to be addressed in terms of the RSEO remained outstanding and had not been completed by the Landlord. A copy of the re-inspection report was copied to both the Landlord and the Tenant.
3. Following receipt of the re-inspection report the Tenant indicated that the Landlord had carried out no further works after the date of the re-inspection and that, accordingly, they requested the Tribunal to grant a Rent Relief Order ("RRO").

4. By email dated 16 May 2017, the Landlord indicated that all works "except for the window" had been completed and "the window is fixed today". The Landlord therefore has suggested that all works have been completed albeit after the date of the first re-inspection of the Property.
5. The Tribunal require to determine whether the Landlord has complied with the terms of the RSEO. The Landlord had not fully complied with the terms of the RSEO at the date of the re-inspection of the property which took place on 11 April 2017. In order to determine whether the Landlord has now fully complied with the terms of the RSEO the Tribunal arranged to carry out a further re-inspection of the property on 21 June 2017, and thereafter hold a hearing, to determine whether the Landlord had complied with the RSEO on the same date.
6. On 21 June 2017 the Committee carried out a further re-inspection of the property. A report prepared by the Tribunal and which outlines their findings at the time of both the first re-inspection of the property (7 April 2017) and the second re-inspection of the property (21 June 2017) is annexed hereto and referred to for its terms.
7. The RSEO dated 10th February 2017 required the Landlord to:
 - (a) carry out such works as are necessary to the wall adjacent to the bath in the Property so that it is in a reasonable state of repair and appropriately tiled, so that a watertight seal is provided between the bath and the wall of the Property;
 - (b) carry out such works as are necessary to repair or renew the mixer tap and shower system attached to the bath in the Property so that they are in a reasonable state of repair and in proper working order;
 - (c) carry out such works as are necessary to repair and/or replace the gas hob in the kitchen in the Property so that it is in a reasonable state of repair and in proper working order;
 - (d) carry out such works as are necessary to the spotlights in the kitchen and the central ceiling light within the kitchen so that they are in a reasonable state of repair and in proper working order;
 - (e) carry out such works as are necessary to repair and/or renew the window in the large bedroom of the Property so that it is in a reasonable state of repair and in proper working order;
 - (f) carry out such repairs as are necessary to the radiator in the hallway in the Property so that the temperature valve of the radiator is functioning, the radiator temperature can be controlled, and the radiator is in a reasonable state of repair and in proper working order;
 - (g) carry out such works as are necessary to the windows within the lounge of the Property so that they are wind tight and in a reasonable state of repair and in proper working order;
 - (h)(i) commission a certified Electrical Installation Condition Report (EICR) AND Portable Appliance Test (PAT) on the entire electrical installations of the Property and all electrical appliances and equipment supplied by the Landlords, which report should be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor; and
 - (ii) carry out such works as are necessary to rectify any identified issue in the Electrical Installation Condition Report and provide the tribunal with a report from a suitably qualified and registered SELECT or NICEIC electrical contractor confirming that the works are completed;
 - (i) carry out such works as are necessary to ensure that there is an acceptable provision for detecting fires and for giving warning in the event of fire or suspected fire, all as required in terms of the Scottish Government guidance for the satisfactory provision for the detection and warning of fires and current building regulations; and

- (j) carry out such works as are necessary to obtain a gas safety record in respect of the Property by a gas safe registered plumbing and heating engineer which shows that the boiler, all associated pipework, radiators and other gas appliances (including the gas hob) have been checked, repaired as necessary and are in a safe and proper working order.
- 8. The Committee noted, at the time of their second re-inspection on 21st June 2017 that works required by the RSEO had been completed with the exception of requirements a, b, g and h(ii) of the RSEO.

The Hearing

- 9. The Hearing was attended by the Tenant and her mother Mrs Elizabeth Flavell along with her representative Louise McCarthy. The hearing was also attended by the Landlord and his legal representative, Miss Nicola McAtier. At the start of the hearing the Tribunal explained their observations from the further re-inspection of the property which had taken place earlier in the day. In particular the Tribunal explained to Parties that they were not satisfied that the works required in terms of paragraphs a, b, g and h(ii) of the RSEO had been completed in full.
 - (1) The Landlord accepted that the works carried out required under Section (a) of the RSEO were not complete and that further work was required to waterproof the wall behind the shower of the bathroom.
 - (2) The Landlord accepted that the works carried out required under Section (b) of the RSEO had not been completed as the shower mixer tap was still not functioning correctly
 - (3) The Landlord accepted that the work required by paragraph (g) of the RSEO had not been completed. The Landlord had understood that works had been carried out to the window within the lounge of the property, but accepted at the hearing that this was not in fact the case. The Landlord further accepted that this work remained outstanding.
 - (4) The Landlord accepted that all works required in terms of an EICR in relation to the property had not been completed. The Landlord explained that there had been difficulty arranging access to the property and that an electrician was to complete the necessary works on 22 June 2017.
- 10. Having regard to their own observations at the time of the re-inspection of the property, and having regard to the evidence of the Parties at the hearing, the Tribunal determined that the Landlord has failed to fully comply with the duty imposed by Section 26(1) of the Act in relation to the requirements of the RSEO paragraphs a, b, g and h(ii). The Tribunal accordingly determined that notice of that failure should be served upon the local authority in which the property is situated.
- 11. In terms of Section 27(2) of the Act, the Tribunal may make an RRO where they have decided that a Landlord has failed to comply with a RSEO which has effect in relation to the property concerned.
- 12. The Tribunal had regard to the submissions which have been made on behalf of the Landlord together with the comments of the Landlord and the Tenant at the time of the hearing on 21 June 2017. The Committee noted that the Landlord had now taken action in relation to a number of items of repair which had been required by the RSEO. Notwithstanding this, the Landlord has still failed to complete all of the works required by the RSEO (which had first been issued in February 2017). Given the Landlord's failure to comply fully with the terms of the RSEO the Tribunal have determined that an appropriate reduction in rent would be to reduce the rent payable under the tenancy by 10%.

13. The Tribunal proceeded to make a RRO in terms of Section 27 of the Act which order shall take effect from 28 days after the last date in which the decision to make the RRO may be appealed under Section 64 of the Act.
14. The Tribunal proceeded to serve notice upon Glasgow City Council as required by Section 24(6) of the Act.
15. 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 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.

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Andrew Cowan

Signed
Andrew Cowan, Chairperson
Donna Jones

Date

3rd July 2017

..... Witness

Donna Jones, Secretary, 7 West George Street, Glasgow, G2 1BA



Property Re-inspection Report

10 Harefield Drive, Glasgow, G14 9AW

Case Reference: FTS/HPC/RP/16/1014

Surveyor: Nick Allan

Date of re-inspection: 21/06/2017

Time of re-inspection: 10.00 am

Weather conditions: Dry and overcast

Present: Nick Allan – Ordinary Member
Andrew Cowan - Legal Member
Jacqueline Canning (Tenant)
Elizabeth Flavell (Tenants Mother)
Louise McCarthy (Tenants Representative)
Miss Nicola McAtier (L/L Representative)
Rohit Sajwan (Landlord)



Requirements of RSEO: -

- a) Carry out such works as are necessary to the wall adjacent to the bath in the Property so that it is in a reasonable state of repair and appropriately tiled, so that a watertight seal is provided between the bath and the wall of the Property.

1st re-inspection - It was noted that the wall section referred to had been covered in a wet-wall finish and a seal created along the length of the bath unit. However, there were still some unfinished areas where appropriate sealing requires to be undertaken.

2nd re-inspection – There is still a section of the bathroom wall between the shower and the bathroom window requiring waterproofing, and some areas where sealant is still required. (Photographs 1 & 2 refer below)

Requirement outstanding.

- b) Carry out such works as are necessary to repair or renew the mixer tap and shower system attached to the bath in the Property so that they are in a reasonable state of repair and in proper working order.

1st re-inspection - It was noted that the shower mixer unit was not attached to the wall and that the hose section attached to the taps was still leaking badly.

2nd re-inspection – It was noted that the shower mixer unit was still not functioning correctly and leaking badly.

Requirement outstanding.

- c) Carry out such works as are necessary to repair and/or replace the gas hob in the kitchen in the Property so that it is in a reasonable state of repair and in proper working order.

1st re-inspection - It was noted that a fully functioning gas hob was now in place.

Requirement met.

- d) Carry out such works as are necessary to the spotlights in the kitchen and the central ceiling light within the kitchen so that they are in a reasonable state of repair and in proper working order.

1st re-inspection - It was noted that 2 out of the 4 kitchen unit spotlights remained in a non-working condition. It was further noted that the kitchen ceiling light unit had been replaced by a single pendant exposed light bulb without a shade, and that this was in working condition.

2nd re-inspection – It was noted that the remaining two kitchen unit spotlights were now fully functioning.

Requirement met.

- e) Carry out such works as are necessary to repair and/or renew the window in the large bedroom of the property so that it is in a reasonable state of repair and in proper working order.

1st re-inspection - No works undertaken.

2nd re-inspection – The window has been repaired. (Photograph 3 refers below)

Requirement met.

- f) Carry out such repairs as are necessary to the radiator in the hallway in the Property so that the temperature valve of the radiator is functioning, the radiator temperature can be controlled, and the radiator is in a reasonable state of repair and in proper working order.

1st re-inspection - No works undertaken.

2nd re-inspection – The necessary repairs have been completed, and the tenant has confirmed that the radiator is functioning correctly, and that the temperature is controllable. (Photograph 4 refers below)

Requirement met.

- g) Carry out such works as are necessary to the windows within the lounge of the Property so that they are wind tight and in a reasonable state of repair and in proper working order.

1st re-inspection - No works undertaken. The Tenant highlighted a new issue with regard to the opening and closing of the left-hand window frame.

2nd re-inspection - It was noted that no work had been undertaken to the lounge windows to make them wind tight. However, it was noted that the issue in respect of the left-hand window frame had been attended to, and satisfactorily resolved.

Requirement outstanding.

- h) (i) Commission a certified Electrical Installation Condition Report (EICR) AND Portable Appliance Test (PAT) on the entire electrical installations of the Property and all electrical appliances and equipment supplied by the Landlords, which report should be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor; and

1st re-inspection - Not yet obtained.

2nd re-inspection – It was noted that an EICR dated 12th June 2017 had been received. It was further noted that no PAT testing had been required since the Landlord had not provided any portable electrical equipment as part of the tenancy agreement.

Requirement met for (h)(i)

(ii) carry out such works as are necessary to rectify any identified issue in the Electrical Installation Condition Report and provide the tribunal with a report from a suitably qualified and registered SELECT or NICEIC electrical contractor confirming that the works are completed;

1st re-inspection - Not yet undertaken.

2nd re-inspection – It was noted that the EICR had identified four C2's, and one C3. At the time of this inspection no work has been undertaken to have these issues resolved.

Requirement outstanding for (h)(ii)

- i) Carry out such works as are necessary to ensure that there is an acceptable provision for detecting fires and for giving warning in the event of fire or suspected fire, all as required in terms of the Scottish Government guidance for the satisfactory provision for the detection and warning of fires and current building regulations; and

1st re-inspection - Not yet undertaken. It was noted that the existing smoke detector in the Lounge was still not working, and that there continued to be an absence of appropriate detectors in both the hallway and kitchen.

2nd re-inspection – Appropriate, and fully functioning detectors have been installed in the lounge, hallway and kitchen. (Photographs 5 & 6 refer below)

Requirement met.

- j) Carry out such works as are necessary to obtain a gas safety record in respect of the Property by a gas safe registered plumbing and heating engineer which shows that the boiler, all associated pipework, radiators and other gas appliances (including the gas hob) have been checked, repaired as necessary and are in a safe and proper working order.

1st re-inspection - A gas safety certificate, completed on the 8th April 2017 by a G. D. Skinner, was produced by the Tenant. A copy of this certificate should be obtained by the tribunal, and authenticated.

2nd re-inspection – The above report passed was passed to the Tribunal on the 14th June.

Requirement met.



Photo 1 – Incomplete bathroom wet-wall



Photo 2 – Sealant issues



Photo 3 – Repaired bedroom window



Photo 4 – Repaired hall radiator



Photo 5 – Hard-wired lounge smoke alarm



Photo 6 – H/W hall smoke alarm

Nick Allan FRICS

Surveyor – Ordinary Member

First-tier Tribunal (Housing and Property Chamber) - 28th June 2017