

Housing and Property Chamber First-tier Tribunal for Scotland



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

Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 60 of Housing (Scotland) Act 2006

Re Property at Flat 0/1, 323 Archerhill Road, Glasgow, G13 4PL (“The Property”)
Land Register title number: GLA187461

Tribunal reference – PRHP/RP/15/0254

The Parties:-

Miss Melissa Duncan, formerly residing at Flat 0/1, 323 Archerhill Road, Glasgow, G13 4PL (“the former tenant”)

And

Mr Safdar Ali, residing formerly at Flat 3/1, 40 Coburg Street, Glasgow, G5 9JF and now residing at Flat 0/1, 323 Archerhill Road, Glasgow, G13 4PL (“the landlord”)

The Tribunal comprised:-

Mr James Bauld - Legal member

Mr Mike Links – ordinary member

Decision:-

The tribunal unanimously decided that the Landlord had not yet complied with the works required to be carried out by the Repairing Standard Enforcement Order issued on the 11 December 2015 and accordingly the Tribunal refused to certify that the relevant works had been completed.

Background

1. On 11 December 2015, the Private Rented Housing Committee issued a determination which decided that the landlord had failed to comply with the duties imposed by section 14 (1) of the Housing (Scotland) Act 2006 (“the

2006 Act”). On the same date the Private Rented Housing Committee issued a Repairing Standard Enforcement Order (“RSEO”) in respect of the property.

2. On 13 May 2016, the Private Rented Housing Committee made a further determination that the Landlord had failed to undertake the works required by the RSEO and the Tribunal made a Rent Relief Order (RRO).
3. On 1 December 2016, the functions and jurisdiction of the Private Rented Housing Committee were transferred to the First-tier Tribunal for Scotland (Housing and Property Chamber)
4. On 11 May 2018, the Tribunal received a letter from the Landlord indicating that all works at the property had been completed to the required standard. The Tribunal treated this letter as a request under Section 60 of the 2006 Act for certification that the relevant works required by the Repairing Standard Enforcement Order had been completed.
5. Accordingly the Tribunal re-inspected the property. The re-inspection was carried out by the ordinary member of the Tribunal on 6 June 2018. A report of that re-inspection was prepared and was issued to the Landlord. A copy of the re-inspection report is attached to this Decision.
6. The re-inspection report was issued to the Landlord. A response was received by the Landlord on 25 June 2018. In the response he indicated that he did not intend to rent this property in the future and it would be used as a home for his family. He indicated he did not agree with the findings of the re-inspection report and indicated that the appropriate standards for rental property did not apply to the property as he now intended to use it as his own residence.
7. The Tribunal members considered the representations received by the Landlord and determined that a hearing should be fixed in order to address matters. Accordingly a hearing was fixed to take place on 6 September 2018 and appropriate intimation of that hearing was sent to the Landlord.

Hearing

8. The hearing took place on 6 September 2018. The Landlord attended. During the hearing he indicated that it was his belief that the Repairing Standard Enforcement Order and the Rent Relief Order should be revoked. It was his position that he was now living in the property. It was his position that the orders were now no longer required as he had no intention ever of leasing of the property again to any other tenant. He claimed that he had done all the work required under the RSEO .

9. The Landlord was questioned by the Tribunal with regard to the works which were required in terms of the Repairing Standard Enforcement Order. The Tribunal indicated to the Landlord that they accepted that he had produced the relevant gas safety certificate, that he had filled and repaired the settlement cracks, that he had replaced the sealant around the bath and removed the damp carpets from the hall and front bedroom. However the Tribunal indicated to the Landlord he had not yet produced to them the appropriate electrical installation condition report nor the report from the timber decay specialist confirming the extent of rot and timber decay and woodworm investigation throughout the property and confirming that necessary works had been carried out. It was also apparent from the re-inspection that the works to refit and replace the doors to the kitchen and the bathroom had not been completed. The Landlord indicated that his joiner would be attending the property that day to ensure the doors of the kitchen and bathroom closed fully and properly. It was his position that the estimate which he produced regarding alleged timber replacement works should be treated as the appropriate report. The Tribunal members indicated to him that the document which he had produced which was simply a list of works and a quote for works did not meet the requirement. The Tribunal also indicated to him that although he had submitted to the Tribunal an electrical installation condition report this was dated 18 February 2016 and set out three matters which still required attention. Those three matters were the replacement of consumer unit, works required to the earthing of the property and the fixing of a broken socket. The Landlord indicated that in his view it was apparent from the inspection that these works have been done. The Tribunal members indicated to the Landlord that they were not appropriately qualified to simply look at electrical installations and confirm they met the relevant standards. The Tribunal members indicated to the Landlord that he required to obtain certification from the electrician who had carried out the works that these were the works required in terms of the earliest electrical installation condition report or alternatively that he required to obtain an up to date electrical installation condition report which in all respects met the terms of the Repairing Standard Enforcement Order.

10. The Landlord also indicated that he had replaced the thermostatic radiator valves and that again this should have been apparent in the inspection. The re-inspection report indicated that all the radiators (with the exception of the hall radiator) had thermostatic valves but it could not be confirmed that they were operating. It was not possible simply to say that the works had been done without some evidence either from invoices or certification by an appropriate tradesman that these works had been done. The Tribunal members explained to the Landlord that he could occupy the property as his own home without the Repairing Standard Enforcement Order and the Rent Relief Order being revoked. However the Tribunal members indicated that they could not revoke these orders without evidence that the relevant works had been done. They indicated that they were not in a position to accept his declaration that he never intended to let the property out again and indicated to the Landlord that the requirement to produce the reports in the Repairing Standard Enforcement Order required to be met in order that the Tribunal could satisfy itself that the order had been satisfied.

11. According the Tribunal concluded by advising the Landlord that they would issue a further Decision and that Decision would be that they would not certify that the works had been completed and that at this stage they would not revoke the various orders. The Landlord indicated that he would obtain the relevant reports and would submit them to the Tribunal and the Tribunal members confirmed that upon receipt of said reports the matter could be reviewed.

Decision

12. The Tribunal accordingly determined unanimously that they are not satisfied that they have received sufficient evidence to enable them to determine that the works required in terms of the initial RSEO have been completed and in particular the Tribunal are concerned that the requirements of the RSEO in respect of an electrical installation condition report and a timber decay report have not been met. Accordingly the Tribunal refuse the application for certification that the works have been completed. The Repairing Standard Enforcement Order and Rent Relief Order will continue pending further determination of the Tribunal.

Right of Appeal

13. In terms of Section 46 of the Tribunals (Scotland) Act 2014, a party 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. The party must seek permission to appeal within 30 days of the date the decision was sent to them.

J Bauld

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James Bauld, Chairperson

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18 September 2018
Date