

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision of the Housing & Property Chamber under the Housing (Scotland) Act 2006 Section 26

Chamber Ref: PRHP/RP/16/0297

Title no/Sasines Description: STG21633

**28 Culvain Place, Hallglen, Falkirk, FK1 2QF
("the property")**

The Parties:-

MISS ANGELA McNAMEE, residing at 28 Culvain Place, Hallglen, Falkirk, FK1 2QF ("the Tenant")

MR GURMIT KAREER and MRS SEEMA KAREER, residing at 15 Ventnor Road, Leicester, LE2 3RN ("the Landlords")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') comprised:-

GRAHAM HARDING (Chairing and Legal Member) and **DAVID GODFREY** (Ordinary Member, Surveyor)

Decision

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 in respect of the property made on 25 November 2016 determined that the Landlord had failed to comply with the Order and that the failure to comply should be reported to the Local Authority and the Police and that a Rent Relief Order should be made.

Background

1. By application received on 12 September 2016, the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act").
2. On 25 November 2016, the Private Rented Housing Committee ("the Committee") issued a determination which stated that the Landlord had failed

to comply with the duties imposed by Section 14 (1) (b) of the Act. The RSEO made by the Committee required the Landlords:-

- (a) to repair or replace the front door so as to render it wind and water tight.
- (b) to repair the lock to the patio doors so that the doors are secure and that they are in a reasonable state of repair and in proper working order.
- (c) to fill and tape the new plasterboard ceilings in the living-room, bathroom landing and stairway and re-decorate as required.
- (d) to create a hatch in the wall in bedroom 2 at service duct.
- (e) to install vents in each room to ensure adequate ventilation to prevent the build-up of condensation and mould within the property.
- (f) to complete the installation of the new kitchen, including replacing any loose/missing tiling.
- (g) to repair the fascia panel below the kitchen window and apply sealant above the kitchen door and kitchen window frame.
- (h) to repair or replace decorative flooring in the living-room.
- (i) to replace hall and stair carpet.
- (j) to remove mould from all walls and ceilings and re-decorate as necessary.
- (k) to repair rear fence to make rear garden secure and install new gate to provide access to the rear garden.
- (l) to instruct and produce to the Committee an Electrical Installation Condition Report by a suitably competent person registered with NICEIC, SELECT or NAPIT in respect of the property dated after the date of this Notice and to carry out any recommendations in said Report to ensure that there are no outstanding category 1 or category 2 items.

The Committee ordered that the works in the RSEO were to be carried out and completed within 6 weeks from the date of service of the RSEO.

3. The jurisdiction of the Private Rented Housing Panel was assumed by the First-tier Tribunal for Scotland (Housing & Property Chamber) on 1 December 2016.
4. A re-inspection of the property was undertaken by the Ordinary Member (Surveyor) of the tribunal on 20 January 2017. A copy of his Inspection

Report is attached. The Ordinary Member found that some of the works required by the RSEO had been completed, namely:-

- (i) the centre section of the front door has been replaced and the front door is now wind and water tight.
- (ii) repairs have been carried out to the plasterboard ceilings in the living-room, bathroom and landing ceilings.
- (iii) a hatch has been created in the wall in bedroom 2 at the service duct.
- (iv) vents appear to have been fitted to the external walls to several rooms.
- (v) the installation of the new kitchen fittings has been completed and the tiling repaired.
- (vi) the decorative flooring in the living-room has been replaced.
- (vii) the hall/stair carpet has been replaced.

The Surveyor Member found the following works in the RSEO still outstanding following the re-inspection:-

- (i) the lock to the patio doors appear to be unchanged.
- (ii) the repairs carried out to the plasterboard ceilings in the living-room, bathroom and landing are unsightly and uneven and the ceilings have only been redecorated in the areas where repairs have been carried out.
- (iii) the hatch in the wall in bedroom 2 at the service duct is unsightly, poorly fitted, held in place by a small nail and has not been decorated.
- (iv) the vents fitted to the external walls of the property do not penetrate the external walls of the property and are not functional.
- (v) although sealant has been applied above the kitchen door and window frame the fascia panel is still in poor condition.
- (vi) the decorative flooring removed from the living-room has been left in the back garden of the property.
- (vii) the mould on the walls and ceiling has been painted over however the mould is still visible through the decoration and the remainder of the walls/ceilings remain undecorated.
- (viii) repairs have been carried out to the rear fence, however the quality of materials is inadequate, the structure is unstable, the new gate poorly constructed and does not open or close property and is insecure.

- (ix) an Electrical Installation Certificate dated 12 January 2017 prepared by Raymond Alexander Electrical was provided by the Landlord. This is not an Electrical Installation Condition Report and there are items of disrepair to the electrical wiring system which require further investigation.
5. A copy of the Re-inspection Report was sent to the Tenant and the Landlord who were given an opportunity to comment in writing on its content. The Landlord submitted responses to the Report. The Landlord provided an Electrical Installation Condition Report dated 16 December 2016 which showed a number of category 2 defects. The Landlord subsequently provided an Electrical Installation Certificate dated 12 January 2017. The Landlord stated:-
1. The lock on the patio doors was going to be fitted within 10 days of 14 February 2017. The ceilings in the living-room, bathroom and landing were going to be plastered and painted within 14 days. The hatch in bedroom 2 was going to be overhauled and properly fitted within 10 days. The vents in the bedrooms had been drilled through to external walls so they were functional. The decorative flooring had been removed from the garden. The mould on the walls and ceiling had been painted over with anti-mould paint and the Tenant had agreed to decorate the walls and ceiling herself. The fence has been renewed with new wooden panels and strengthened with posts. The EICR and follow-up work had been completed. The exposed wire had been made safe.
6. The tribunal decided to fix a further re-inspection and Hearing. This was arranged for 19 May 2017 at the property at 0930 hrs and the Hearing at Falkirk Town Hall at 1030 hrs.

The second re-inspection

7. The Tenant was present and provided access to the property. The Landlords were neither present nor represented. The tribunal noted that two bolts had been fitted to the patio doors and a piece of trim fitted to the exterior of one of the doors. A catch had been fitted to the hatch in the wall in bedroom 2 and the hatch/surround had been painted. The fascia panel below the kitchen window had been replaced. The decorative flooring removed from the living-room had been removed from the back garden of the property. The means of securing the patio doors did not meet current standards and the doors were neither wind and water tight nor secure. The ceilings in the living-room, bathroom and landing are unsightly and uneven and have only been redecorated in the areas where repairs have been carried out. The hatch in the wall in bedroom 2 at the service duct is still unsightly and has been poorly fitted. The vents to the external walls of the property do not properly penetrate the external walls and are not functional. The mould on the walls and ceilings has been painted over however the mould is still visible through the decoration and several of the walls/ceilings remain undecorated. Further

repairs have been carried out to the rear fence however there are still sections which are in poor condition and the gate does not open or close properly and is insecure. An Electrical Installation Certificate dated 12 January 2017 prepared by Raymond Alexander Electrical was provided by the Landlord. This is not an Electrical Installation Condition Report and there are items of disrepair to the electrical wiring system which require further investigation. The Ordinary Member (Surveyor) produced a second re-inspection Report which is attached.

The Hearing

8. The Tenant attended the Hearing along with her daughter, Suzanne Beattie, for support. The Landlord was neither present nor represented.
9. According to the Tenant the work that had been done was slap-dash and to the cheapest standard. She thought that the workmanship was terrible. The workmen instructed by the Landlord were unreliable. They would come one day and then not turn up the next. The Tenants said that the kitchen cabinets were now better although the kitchen flooring had not been replaced. The bathroom was in better condition. The Tenant was not happy with the patio doors. The Tenant complained that because the gate to the back garden was insecure people were continuing to deposit rubbish in her back garden. The Tenant thought that the condensation in the smaller of the bedrooms on the upper floor was slightly better but the condensation in the larger of the bedrooms was still quite bad. The Tenant felt that the works required by the RSEO had not been fully completed.

Decision

10. The tribunal noted that some of the works required by the RSEO had been completed but substantial issues remained outstanding in terms of the RSEO. The tribunal was concerned that the quality of the workmanship, particularly with regards to the repairs to the patio door, the vents in the bedrooms, the repairs to the garden fence and back gate, the repairs to the hatch in bedroom 2 and the re-plastering and painting of the walls and ceilings were not to an acceptable standard.
11. The tribunal took the view that the Landlord has had ample time to carry out the remaining works.
12. The tribunal accordingly determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order in respect of the Property and that this failure should be reported to the Local Authority and to the Police. In terms of Section 28 (1) of the Act, a Landlord who without reasonable excuse fails to comply with the Repairing Standard Enforcement Order commits an offence.
13. In light of the Landlord's failure to comply with the Repairing Standards Enforcement Order, the tribunal made a Rent Relief Order in terms of Section 27 of the Act.

13. 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.

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.

Signed G Harding

Date 16th June 2017

Chairperson

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: PRHP/RP/16/0297

28 Culvain Place, Hallglen, Falkirk, FK1 2QF
("the property")

The Parties:-

MISS ANGELA McNAMEE residing at 28 Culvain Place, Hallglen, Falkirk, FK1 2QF
("the Tenant")

MR GURMIT KAREER and MRS SEEMA KAREER residing at 15 Ventnor Road, Leicester, LE2 3RN
("the Landlords")

NOTICE TO ("the Landlords")

Whereas in terms of its decision dated 16 June 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 in relation to the property made by the tribunal.

The tribunal determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 50% 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 Rent Relief Order 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 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.

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 Rent Relief Order 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 Rent Relief Order 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.

Signed G Harding

Date

16TH JUN 2017

Chairperson