

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/19/0332

Property: flat on the northwest side of the common close, Flat 0/2, 218 Allison Street, Glasgow, G42 8RS, being the subjects registered in the Land Register of Scotland under Title Number: GLA45013 ("The Property")

The Parties:-

Ms Alina Munteanu, residing at Flat 0/2, 218 Allison Street, Glasgow, G42 8RS ("the Tenant")

and

Mrs Robina Rasul, residing at 54 Kilchattan Drive, Kings Park, Glasgow, G44 4PY ("the Landlord")

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 12 April 2019, 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. On 12 April 2019 the tribunal issued a repairing standard enforcement ("RSEO") order in respect of the Property.**

The order issued by the Tribunal required the Landlord to:-

- (a) Carry out such works as are necessary to ensure that the kitchen sink is in a reasonable state of repair and proper working order;**
 - (b) Carry out such works as are necessary to ensure that the washing machine within the Property is in a reasonable state of repair and proper working order.**
- 2. The Tribunal have carried out two re-inspections of the property. At the second re-inspection the Tribunal noted that the Landlord had not fully complied with the Tribunal's requirement that work was to be carried out, as necessary, to the kitchen sink at the property. In particular it was noted that a cover for an alternative tap location had not been fitted, the consequence of which was that water can seep beneath the sink at that location.**
 - 3. At the second re-inspection the Tribunal noted that the original complaint that the Tenant had made in relation to the washing machine (that water backs up into the sink basin) had been resolved.**
 - 4. At the time of the original inspection (prior to the issue of the RSEO) the Tribunal had made further observations in relation to the condition of certain parts of the property. For the avoidance of doubt, these observations were not part of the Tribunal's requirements in terms of the RSEO.**
 - 5. Following issue of the second re-inspection report the Tribunal, by letter to parties dated 22 October 2019, indicated that they were now required to consider whether the Landlord had complied with the RSEO. If the Landlord had not complied with RSEO, the Tribunal could consider reducing the rent payable under the tenancy agreement.**
 - 6. By letter dated 22 October 2019 the Tenant's solicitors (Govan Law Centre) lodged a form with the Tribunal in which they indicated that they considered a rent relief order should be granted and sought an order reducing the rent payable to the Landlord. In that form the solicitors for the Tenant indicated that they consider such a reduction in rent should be made as the Landlord had failed to complete all the repairs required in terms of the RSEO.**
 - 7. By email dated 22 October 2019 the Landlord responded to the Tribunal. She stated that she now lived permanently abroad and that she had difficulty arranging for contractors to carry out necessary work to the Property. The Landlord indicated that she could not arrange to have the work required by the RSEO to be completed. She did not indicate that she wished any further**

hearing in relation to the matter and she apologised for inconvenience to the Tenant.

8. Following an administrative delay, on 27 July 2020 the Tribunal issued Directions to the Tenant to clarify whether the Tenant still resided in the property and whether the Landlord had carried out any further repairs to the Property.
9. The Tenant's representative, Ms Wendy Malloy of Govan Law Centre, responded to the Tribunal's Directions by email dated 29th July 2019. In that response it was confirmed that, *inter alia*, :-

- a) The Tenant continues to occupy the property with her family.
- b) Rent payable under the Tenancy Agreement is £500 pcm
- c) The Tenant states the kitchen sink has not been fixed and still leaks on to the floor (during any use. The landlord has not presented to fix this or send a tradesperson.
- d) The Tenant wishes Tribunal to consider granting a Rent Relief Order

A copy of the Tenant's Direction response email was circulate to the Landlord. The Landlord has not responded further.

10. Having regard to their own observations at the time of the re-inspection of the property, and having regard to the written evidence of the Parties, the Tribunal has accordingly 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. 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 a Rent Relief Order 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 in her email of 22 October 2019 together with the comments of the In her email of 29th July 2020. The Committee noted that the Landlord had taken some action in relation to a number of items of repair which had been required by the original RSEO. Notwithstanding this, the Landlord has still failed to complete all of the works required by the RSEO. The outstanding repairs required in terms of the RSEO are not serious, but the Tenant continues to be inconvenienced by water leaking from the kitchen sink at the property, The Landlord has indicated that she does not intend to carry out any further work at the Property. Given the Landlords failure to comply fully with the terms of the RSEO, and noting the length of time that the required repairs have remained outstanding 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 Rent Relief Order 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.

A Cowan

Signed
Andrew Cowan, Chairperson

Date 3 September 2020

R O'DonnellWitness
Ross O'Donnell, Trainee Solicitor
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)
RENT RELIEF ORDER: Housing (Scotland) Act 2006 Section 27

Chamber Ref: FTS/HPC/RP/19/0332

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The Parties:-

Ms Alina Munteanu, residing at Flat 0/2, 218 Allison Street, Glasgow, G42 8RS ("the Tenant")

and

Mrs Robina Rasul, residing at 54 Kilchattan Drive, Kings Park, Glasgow, G44 4PY ("the Landlord")

NOTICE TO Mrs Robina Rasul, residing at 54 Kilchattan Drive, Kings Park, Glasgow, G44 4PY ("the Landlord")

Whereas in terms of its decision dated 03 September 2020, 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.

A Cowan

Signed Date 3 September 2020
Andrew Cowan, Chairperson

R O'Donnell

.....Witness
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