

Housing and Property Chamber First-tier Tribunal for Scotland



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

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

STATEMENT OF DECISION of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 25 (1) of the Housing (Scotland) Act 2006

Ref: FTS/HPC/RT/19/2901

Property at 157 Neilston Road, Paisley, PA2 6QL (“the property”)

The Parties:-

Renfrewshire Council, Community Housing and Planning Services, Renfrewshire House, Cotton Street, Paisley, PA1 1JD (“the Third Party Applicant”)

and

Mr Mansoor Zafar, 21 Briarlea Drive, Giffnock, G46 6DS (“The Landlord”)

Tribunal Members:-

Andrew Cowan (Legal Member)

Carol Jones (Ordinary Member)

Background

1. By application dated 16th September 2019, the Third Party Applicant (herein after referred to as “the Council”) made an application to the First-tier Tribunal (Housing and Property Chamber) indicating that they believed that the Landlord was failing to comply with the duties imposed upon him by section 14(1)(d) of the Housing (Scotland) Act 2006 (“the 2006 Act”). Following upon an inspection of the Property by the Tribunal on 9th January 2020 the Tribunal issued a decision indicating that the Landlord had failed to comply with the various duties imposed upon him by the 2006 Act and the Tribunal issued a Repairing Standard Enforcement Order (RSEO) dated 17th January 2020 in respect of the property.
2. In terms of the RSEO the Landlord was ordered to carry out certain works to the property and to produce certain documents within a period of time, all as specified in the RSEO.

3. Following the issue of the RSEO a re-inspection of the property was not immediately possible due to restrictions imposed during the Covid pandemic. On 25th November 2020 the Landlord provided certain reports and photographs in respects of some works that had been completed at the Property. The Tribunal convened a Case Management Discussion to discuss the evidence produced by the Landlord. The Case Management Discussion took place on 18 January 2021 by conference call. At the Case Management Discussion the Tribunal reviewed each part of the RSEO. At that time it was agreed it was necessary to arrange a further inspection of the Property to allow the Tribunal to view the repairs carried out by the Landlord and to allow the Tribunal to determine whether the Landlord had now complied with the RSEO.
4. Further attempts were made to arrange a re-inspection of the property. A re-inspection was finally arranged for the 22nd September 2021. Arrangements were made for the Tribunal to re-inspect the Property on that date. The Landlord and a representative from the Council were both in attendance at the re-inspection. A report was prepared and photographs were taken. That report was issued to the Parties by letter dated 29th September 2021. The letter issued to Parties advised parties that they had a period of 14 days from the date of the letter to submit any comments they would wish to make on the terms of the report prepared by the Tribunal following the re-inspection. Parties were advised that at the end of that period of 14 days the Tribunal would make a decision as to whether the Landlord had complied with the terms of the RSEO.
5. Following the issue of the re-inspection report the Landlord emailed the offices of the Tribunal. In that email he indicated that he had carried out some further work to comply with the terms of the RSEO, although he still required time to complete certain other works as required by the RSEO.

Decision

6. The Tribunal carefully reviewed matters and in particular the evidence obtained by the Tribunal at the re-inspection. The Tribunal are not satisfied that the Landlord has complied with all aspects of the RSEO. It has been explained on a number of occasions what the Landlord must do to comply with each of the terms of the RSEO. The Landlord has failed to implement all of the works required in terms of the RSEO and he is in breach of that order and has accordingly failed to comply with the terms of the RSEO.
7. In terms of section 25 in the 2006 Act the Tribunal are required to determine whether a Rent Relief Order should be made. No evidence has been presented to the Tribunal that the Property continues to be let or that rent is paid. In this circumstance the Tribunal are not in a position to make a Rent Relief Order.
8. The Decision of the Tribunal is unanimous.

Right of Appeal

9. 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. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

10. 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.

A Cowan

Signed
Andrew Cowan, Legal Member

Date 21 October 2021