

Housing and Property Chamber First-tier Tribunal for Scotland



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

Chamber Ref: FTS/HPC/RP/18/3495

Title no: DMB74837

28 Craigton Avenue, Milngavie, Glasgow, G62 7SX being the subjects registered in the Land Register of Scotland under Title Number DMB74837 ('The Property')

The Parties:-

Alistair Goold and Liza Goold residing together at British International School of Jeddah, Teacher Compound, Al Muhammiditah District, Jeddah, 21442, Saudi Arabia and sometime residing at 62 Causeyside Street, Paisley, PA1 1YW ('the Landlords').

Caitlin Munro residing at 28 Craigton Avenue, Milngavie, Glasgow, G62 7SX ('the Tenant').

Raymond Heath, East Dunbartonshire CAB, 11 Alexandra Street, Kirkintilloch, G66 1HB ('the Tenant's Representative').

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Andrew McFarlane (Ordinary Member).

Background

1. The Tribunal issued a Repairing Standard Enforcement Order dated 13th March 2019 ('RSEO') in respect of the Property which required the Landlord to:-

1. *Repair the dampness in the Property to render the Property water tight and in particular carryout repairs necessary to supply and install the following (where not already undertaken) and provide confirmation from a specialist that work has been completed:-*

1.1 *To Kitchen and Bathroom; in external wall SA25 SELV Data 4" fan, trickle and boost 25l, pull cord boost, humidity boost and 5 week data logging facility or equal. Locate intelligent remote sensor between moisture source and door leading out of room.*

1.2 *To Main Bedroom; in external wall 100mm wall mounted passive ventilator PV100 or equal.*

1.3 To areas affected by mould growth; apply 2 coats of sterilising solution and finish with 2 coats of anti-mould paint extending 500mm beyond affected area.

1.4 Strip and replace window surrounds affected by mould growth.

1.5 Strip and replace sealants around windows with mould resistant sealant to areas affected by mould growth.

1.6 Strip and replace bath sealant with mould resistant sealant to areas affected by mould growth.

2. Overhaul all opening sashes to windows to ensure neoprene sealing gaskets between sash and frame are intact and secured in place sufficient to ensure they seal properly without either requiring to be held in place or adjusted following closure.

3. Overhaul latch locks of the internal doors to ensure when door is closed the door leaf is secured against the facings. (If latch locks cannot be overhauled fit another form of restraint such as a ball catch.)

4. Repair or replace kitchen sink base unit to ensure there is an intact, properly supported base, intermediate shelf and back panel. Properly form holes for the passage of water supply and drainage pipes and seal around as required. Repair or replace the kitchen drawer unit and kitchen wall unit to render it in proper working order.

5. Exhibit a compliant Electrical Installation Condition Report (EICR) by a suitably qualified and registered electrician to cover modifications to electrical system carried out since EICR issued. (New Consumer Control Unit and new extract fans).

6. Exhibit a valid current and compliant Gas Safety Certificate for the Property by a suitably qualified Gas Safe registered engineer to address the state of repair and working order of all gas appliances and installations in the Property.

7. Fill holes around socket outlet on Kitchen wall to secure compliance with regulations relating to electrical installations.

8. Fill the hole in the external wall of the bathroom below the window sill.

9. Fill the hole in the plaster in the smaller front bedroom.

10. Repair or replace the missing section of skirting between the doors to the Kitchen and third Bedroom.

11. Secure or replace light switch for Bathroom light located in Hall.

12. Secure or replace ceiling mounted light fitting in Kitchen.'

2. The Tribunal ordered that the works specified in the RSEO must be carried out and completed by 30th by April 2019.

3. Inspections

On 28th May 2019 Mr McFarlane, the surveyor member of the Tribunal, carried out a reinspection for the purpose of ascertaining whether the outstanding repairs required by the RSEO had been completed. The reinspection report dated 28th May 2019 and relative photographs taken at the reinspection are annexed and executed as relative hereto. The parties were sent a copy of the reinspection report.

The Landlord indicated that he did not agree with the reinspection report as further works had been carried out to the Property. The Tenant indicated that she wished the Tribunal to grant a rent relief order. Accordingly a fresh inspection and hearing were scheduled for 27th August 2019.

On 27th August 2019 the Tribunal carried out a further inspection of the Property for the purpose of ascertaining whether the outstanding repairs required by the RSEO had been completed. The Tenant, Raymond Heath, the Tenant's representative, the Landlord's representative Gemma Waters, were present at the reinspection. The Schedule of Photographs taken at the reinspection are annexed and executed as relative hereto.

4. Written Representations

The parties sent the Tribunal written representations prior to the inspection and hearing that were considered by the Tribunal.

5. Hearing

Following the inspection of the Property on 27th August 2019 the Tribunal held a hearing at The Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT.

The Landlord contributed to the hearing by telephone conference call. Gemma Waters, the Landlord's representative attended the hearing in person.

The Tenant, Raymond Heath, the Tenant's representative, attended the hearing in person.

All the parties agreed that the following items of the RSEO had been completed and this had been confirmed in the reinspection report dated 28th May 2019:

Completed items:

1.1 To Kitchen and Bathroom; in external wall SA25 SELV Data 4" fan, trickle and boost 25l, pull cord boost, humidity boost and 5 week data logging facility or equal. Locate intelligent remote sensor between moisture source and door leading out of room.

1.2 To Main Bedroom; in external wall 100mm wall mounted passive ventilator PV100 or equal.

1.3 To areas affected by mould growth; apply 2 coats of sterilising solution and finish with 2 coats of anti-mould paint extending 500mm beyond affected area.

1.5 Strip and replace sealants around windows with mould resistant sealant to areas affected by mould growth.

1.6 Strip and replace bath sealant with mould resistant sealant to areas affected by mould growth.

3. Overhaul latch locks of the internal doors to ensure when door is closed the door leaf is secured against the facings. (If latch locks cannot be overhauled fit another form of restraint such as a ball catch.)

(Part of item 4) Repair or replace kitchen sink base unit to ensure there is an intact, properly supported base, intermediate shelf and back panel. Properly form holes for the passage of water supply and drainage pipes and seal around as required.

- 7. Fill holes around socket outlet on Kitchen wall to secure compliance with regulations relating to electrical installations.*
- 9. Fill the hole in the plaster in the smaller front bedroom.*
- 11. Secure or replace light switch for Bathroom light located in Hall.*
- 12. Secure or replace ceiling mounted light fitting in Kitchen.'*

In respect of the outstanding repairs required by the RSEO the parties advised as follows:

1.4 Strip and replace window surrounds affected by mould growth.

Mr McFarlane described the condition of the window surround in the main bedroom as examined at the inspection. He explained that the facings had been replaced and the window sill had been replaced and had been painted. The ingo and soffit are the original timbers but they have been painted.

The Tenant and Raymond Heath agreed with this explanation.

The Landlord referred the Tribunal to invoice number 21, which had been produced evidencing that he had paid for the repair to be carried out.

Mr McFarlane described the condition of the window surround in the second bedroom as being in the same condition as when he had examined it at the original inspection. There was engrained mould growth in the wooden window surround.

Raymond Heath confirmed that he agreed with this description. The Tenant advised that no repair work had been carried out to this window surround.

The Landlord advised the Tribunal that he lives abroad and that his agent Clyde Property are his eyes and ears. As far as he was concerned he had instructed all of the required repairs. He had not been advised by Clyde Property that this matter was outstanding.

2. Overhaul all opening sashes to windows to ensure neoprene sealing gaskets between sash and frame are intact and secured in place sufficient to ensure they seal properly without either requiring to be held in place or adjusted following closure.

Mr McFarlane explained that window gaskets had been repaired and were in a better condition than at the original inspection however a section of the top seal of the kitchen window was twisted.

Gemma Waters referred the Tribunal to Invoice 22 which shows the repair to the window gasket as having been completed. She suggested that perhaps the repair had been completed but it had popped out again.

The Landlord emphasized that he had instructed the repair and believed that it had been carried out. He referred the Tribunal to productions 16, 22 and 24.

4.Repair or replace the kitchen drawer unit and kitchen wall unit to render it in proper working order.

Mr McFarlane explained that at the inspection the front of the kitchen drawer was attached to the sides of the drawer. It was secure but loose. It did not fall off into your hand on opening the drawer, as occurred at the original inspection. Also the drawer runners had been packed out but were loose. In connection with the wall unit, a nail was protruding through the top of the unit also the back sections of the wall unit had not been repaired.

The Tenant, Raymond Heath and Gemma Waters agreed with this description.

The Landlord explained that the kitchen units were newly installed in April 2019. On 2nd July 2019 they had been repaired under warranty. He advised that his production 28 confirmed this.

5.Exhibit a compliant Electrical Installation Condition Report (EICR) by a suitably qualified and registered electrician to cover modifications to electrical system carried out since EICR issued. (New Consumer Control Unit and new extract fans).

Mr McFarlane confirmed that the compliant EICR report dated 5th August 2019 had been provided.

6.Exhibit a valid current and compliant Gas Safety Certificate for the Property by a suitably qualified Gas Safe registered engineer to address the state of repair and working order of all gas appliances and installations in the Property.

Mr McFarlane confirmed that the compliant Gas Safety Report had been provided.

8. Fill the hole in the external wall of the bathroom below the window sill.

Mr McFarlane explained that a UPVC facing had been fitted over the hole however it had not been sealed properly and there is a gap.

The Tenant agreed with this description.

The Landlord referred the Tribunal to production 22 which showed that he had paid for the repair work to be carried out.

10. Repair or replace the missing section of skirting between the doors to the Kitchen and third Bedroom.

Mr McFarlane confirmed that this repair had been completed. The parties agreed.

6. Decision and Reasons

6.1 Findings in Fact

6.1.1 The window surround in the main bedroom had been satisfactorily stripped, sections had been replaced and the evidence of mould growth had been removed.

6.1.2 The window surround in the second bedroom had not been repaired and mould growth was still evident.

6.1.3 The window gaskets had been repaired albeit there was a small twisted section of gasket to the kitchen window.

6.1.4 The kitchen drawer unit had been repaired albeit that the front panel of the drawer was a little loose.

6.1.5 A nail was protruding through the top of the kitchen wall unit and the back panels of that unit had not been repaired.

6.1.6 A compliant EICR certificate had been provided.

6.1.7 A compliant Gas Safety Certificate had been provided.

6.1.8 The hole in the external wall of the bathroom below the window sill had been partly repaired.

6.1.9 The missing section of skirting between the doors to the Kitchen and third Bedroom had been repaired.

6.2 Given the terms of the said reinspection report dated 28th May 2019 and the findings at the inspection on 27th August 2019, the written representations submitted to the Tribunal and the oral representations made at the hearing the Tribunal Determine:-

6.2.1 The following items of the RSEO have been **satisfactorily completed**:-

1.1 To Kitchen and Bathroom; in external wall SA25 SELV Data 4" fan, trickle and boost 25l, pull cord boost, humidity boost and 5 week data logging facility or equal. Locate intelligent remote sensor between moisture source and door leading out of room.

1.2 To Main Bedroom; in external wall 100mm wall mounted passive ventilator PV100 or equal.

1.3 To areas affected by mould growth; apply 2 coats of sterilising solution and finish with 2 coats of anti-mould paint extending 500mm beyond affected area.

1.4 Strip and replace window surrounds affected by mould growth in the main bedroom only.

1.5 Strip and replace sealants around windows with mould resistant sealant to areas affected by mould growth.

1.6 Strip and replace bath sealant with mould resistant sealant to areas affected by mould growth.

2. Overhaul all opening sashes to windows to ensure neoprene sealing gaskets between sash and frame are intact and secured in place sufficient to ensure they seal properly without either requiring to be held in place or adjusted following closure.

The Tribunal acknowledged that there was a small section of the window gasket of the kitchen window that was twisted but they determined that this was not sufficient to prevent the condition of the window from complying with the repairing standard.

3.Overhaul latch locks of the internal doors to ensure when door is closed the door leaf is secured against the facings. (If latch locks cannot be overhauled fit another form of restraint such as a ball catch.)

4.(Part of) Repair or replace kitchen sink base unit to ensure there is an intact, properly supported base, intermediate shelf and back panel. Properly form holes for the passage of water supply and drainage pipes and seal around as required. Repair or replace the kitchen drawer unit.

5.Exhibit a compliant Electrical Installation Condition Report (EICR) by a suitably qualified and registered electrician to cover modifications to electrical system carried out since EICR issued. (New Consumer Control Unit and new extract fans).

6.Exhibit a valid current and compliant Gas Safety Certificate for the Property by a suitably qualified Gas Safe registered engineer to address the state of repair and working order of all gas appliances and installations in the Property.

7. Fill holes around socket outlet on Kitchen wall to secure compliance with regulations relating to electrical installations.

9.Fill the hole in the plaster in the smaller front bedroom.

10.Repair or replace the missing section of skirting between the doors to the Kitchen and third Bedroom.

11.Secure or replace light switch for Bathroom light located in Hall.

12.Secure or replace ceiling mounted light fitting in Kitchen.'

6.2.2 That the following items of the RSEO **have not been satisfactorily completed** as the required works have not been carried out:-

1.4 Strip and replace window surrounds affected by mould growth in the second bedroom.

4.Repair or replace the kitchen wall unit to render it in proper working order.

8.Fill the hole in the external wall of the bathroom below the window sill.

6.2.3 The Tribunal were mindful of the fact that the Landlord had instructed the required repairs to be carried out and had instructed their agents Clyde Properties to attend to this on his behalf accordingly the Tribunal considered it reasonable to vary the RSEO to allow the Landlord additional time to complete the required works. Accordingly as section 25(1) of the Housing (Scotland) Act 2006 authorises the Tribunal to vary a RSEO in such manner as they consider reasonable the Tribunal determined that the RSEO would be varied as follows:

First, Items 1.1, 1.2, 1.3,1.4 (main bedroom only) 1.5, 1.6, 2, 3, 4 (in relation to the requirement to *repair or replace kitchen sink base unit to ensure there is an intact, properly supported base, intermediate shelf and back panel. Properly form holes for the passage of water supply and drainage pipes and seal around as required. Repair or replace the kitchen drawer unit*), 5, 6, 7, 9, 10, 11 and 12 of the RSEO are revoked as they have been satisfactorily completed.

Second, the date for completion of the works required in terms of Items 1.4 (second bedroom); 4 (in relation to the requirement to repair or replace the kitchen wall unit to render it in proper working order) and 8 of the RSEO is varied to 15th November 2019.

7.The decision of the Tribunal was unanimous.

Appeals

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.

J Taylor

Signed..... Date 11th September 2019
Chairperson