

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination under section 24(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/18/2350

**Property at 21 Cheyne Street, Edinburgh, EH4 1JD
("The House")**

The Parties:-

Mr Alastair Hogg, residing at 21 Cheyne Street, Edinburgh, EH4 1JD ("the Tenant")

Mr John Anderson, residing at 31 Cheyne Street, Stockbridge, Edinburgh, EH4 1JD
("the Landlord")

The Tribunal comprised:-

Mrs Ruth O'Hare - Legal Member
Mrs Debbie Scott - Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') unanimously determined under section 25(1)(a) of the Housing (Scotland) Act 2006 to vary the Repairing Standard Enforcement Order to extend the period of time for completion of the works by six weeks and to direct the Landlord to provide the documentation as noted at paragraph 6 of this Decision.

Background

1. Reference is made to the decision of the Tribunal dated 20 February 2019 which determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"). The Tribunal therefore made a Repairing Standard Enforcement Order requiring the Landlord to undertake the following works:-
 - (i) Repair or replace the gas boiler so that it is in a reasonable state of repair and in proper and safe working order;
 - (ii) Install a carbon monoxide detector in the property in accordance with the Scottish Government Statutory Guidance for the Provision of Carbon Monoxide Alarms in Private Rented Housing;

- (iii) Instruct a qualified electrician to inspect the electrical installations and carry out such works as are necessary to ensure they are in a reasonable state of repair and safe working order and produce a clear electrical installation condition report thereafter; and
- (iv) Carry out any redecoration required after completion of the above works.

The Re-inspection

2. On 5th July 2019 the Ordinary Member carried out a re-inspection of the property. The Tenant was present and allowed access. A copy of the re-inspection report is attached herewith. In summary the findings of the re-inspection were as follows:-
 - (a) Repairs had been carried out to the boiler by a contractor who was believed to be registered. The hot water in both the kitchen and bathroom were tested and found to be operational. The heating was tested and the radiators were found to be operational.
 - (b) No gas safety certificate had been produced following the repairs to the boiler.
 - (c) No carbon monoxide detector had been installed and there are no smoke detectors in the property.
 - (d) No Electrical Installation Condition Report had been produced and no inspection had been undertaken of the electrical installations in the property.

Reasons for Decision

3. The Tribunal was satisfied that it had sufficient information upon which to make a determination of the application and that there was no requirement for a further hearing at this time. It was clear from the findings of the re-inspection that the RSEO had not been complied with in full, albeit repairs had been undertaken to the boiler and it appeared that both the heating and hot water was in proper working order.
4. However no works had been done in terms of the installation of a carbon monoxide detector, nor had any inspection been undertaken of the electrical installations within the property. Further, in the absence of a gas safety certificate the Tribunal could not be satisfied that the boiler was in fact safe.
5. Accordingly, having regard to the work undertaken by the Landlord, the Tribunal considered it would be reasonable to allow a further period of time for the Landlord to undertake the remainder of the works required by the RSEO. The Tribunal therefore determined to extend the period of time for completion of the works by a period of six weeks. The Tribunal also issued the undernoted direction to ensure the Landlord is clear on what documentation is required by the Tribunal.

Direction

6. In terms of Rule 16 of the The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 the Tribunal directs the Landlord to provide the following information prior to the expiry of the extended period for completion of the works:
 - (i) An up to date and clear gas safety certificate;
 - (ii) An up to date and clear Electrical Installation Condition Report; and
 - (iii) Evidence of the installation of a carbon monoxide detector in the form of photographs or written confirmation from a contractor.

7. The decision of the Tribunal was unanimous.

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.

R O'Hare

Signec

Ruth O'Hare
Chairperson

19 September 2019