

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision: Section 25(1) Housing (Scotland) Act 2006 (“the Act”)

Chamber Ref: PRHP/ML1/169/10

Title no: LAN18650

34 Orchard Street, Motherwell, ML1 3JD (“the property”)

The Parties: -

Stefan Ehrendofer, 67 Avon Street, Motherwell (“the former Landlord”)

Hazel Matthews, formerly of 34 Orchard Street, Motherwell (“the former Tenant”)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having made such enquiries as it saw fit determined that the work required by the Repairing Standard Enforcement Order (“RSEO”) relative to the property dated 28 April 2018 is no longer necessary, the said RSEO is hereby revoked with effect from the date of service of this notice.

The Tribunal comprised: -

Mrs Josephine Bonnar, Legal Member

Mr Andrew Taylor, Ordinary Member

Background

1. By application dated 18 November 2010 the former Tenant applied to the Private Rented Housing Panel ("PRHP") for a determination of whether the former Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The PRHP served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the former Landlord and former Tenant on 26 November 2010. The parties were notified that an inspection and hearing would take place on 25 January 2011
3. The Private Rented Housing Committee ("the Committee") inspected the property on the morning of 25 January 2011. The former tenant was present. The former Landlord was not present, arriving after the inspection had taken place. Thereafter a hearing took place at the Moorings Hotel in Motherwell. Both former parties attended.
4. Following the hearing the Committee issued an RSEO. In terms of the RSEO the Landlord is required (1) To carry out such works as are necessary to provide effective and functioning light fittings in the side bedroom and kitchen. (2) To produce an electrical safety certificate. (3) To affix a ceiling rose to the ceiling light in the computer room (4) To carry out such works as are necessary to ensure (a) the bathroom door and (b) computer room door, fit their frames and open and close in the proper manner. (5) To repair, replace or adjust the external door from the porch to the garden to ensure the door fits the frame, (6) To repair, replace or adjust the door from the porch into the kitchen to ensure the door fits its frame, is rendered weatherproof and is capable of being locked, and (7) To provide a hard wired smoke alarm as required by statute. The work was to be completed within 8 weeks of the RSEO being issued.
5. On 14 April 2011 the Ordinary Member of the Committee re-inspected the property. It was established that very little work required by the RSEO had been carried out. The re-inspection report was issued to the former parties. On 3 June 2011 the Committee proceeded to issue a decision that the former Landlord had failed to comply with the RSEO. A Rent Relief Order was also issued on that date.
6. The former Landlord sold the property on 31 October 2013.

7. On 1 December 2017 the Private Rented Housing Panel transferred to the First tier Tribunal for Scotland.
8. On 5 February 2019 the now owner of the property asked the Tribunal to consider issuing a completion certificate or revoking the RSEO as work has been completed, albeit by her and not the former landlord. She also advised that the property is now occupied by her as an owner occupier and is not rented to tenants. The Ordinary Member of the Tribunal re-inspected the property on 25 February 2015. During the reinspection it was noted that Parts 1, 3, 4, 6 and 7 of the RSEO have been completed. The porch door which is the subject of part 5 of the RSEO no longer exists. No electrical certificate in terms of part 2 of the RSEO has been produced. A copy of the re-inspection report is attached to this decision.

Reason for decision

9. The Tribunal considered the condition of the property at the re-inspection and the information provided by the now owner occupier of the property. The Tribunal notes that the property is not rented to tenants and appears not to have been rented to tenants since the current owner purchased same in October 2013. The current owner is still carrying out work to the property and appears to intend to continue to occupy it as a family home. Most of the work required by the RSEO has been carried out by the current owner. Part 5 of the order required a door to be repaired or replaced. The current owner has removed this door altogether, so this part of the order is now unnecessary. As the property is not currently a private rented property, the owner is not required by law to obtain an electrical inspection condition report (EICR) for the property. This part of the order is now also unnecessary. In the circumstances the Tribunal concludes that the RSEO should be revoked.
10. The Tribunal is therefore satisfied that the work required in terms of the RSEO has either been completed or is no longer necessary and that the RSEO should be revoked.

Decision

11. The Tribunal determined that the RSEO should be revoked and proceeded to issue a revocation.

12. 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 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.

In terms of Section 63 of the Act, 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 **J Bonnar** 17 March 2019
Josephine Bonnar, Legal Member



Re-Inspection Report



Property – 34 Orchard Street, Motherwell, ML1 3JD

Reference- PRHP/ML1/169/10

Surveyor – Andrew Taylor, MRICS

Previous Inspections – Full Committee – 25th January 2011

Re-inspection – 3.30pm, 25th February 2019

Weather – Dry, sunny

In Attendance – Ms Helen Hunter, Current Owner Occupier, Mr Matthew Tainsh, Committee Clerk.

Purpose of Re-inspection - To establish if the work required under the Repairs Standard Enforcement Order had been completed.

RSEO – In terms of the RSEO issued on 7th February 2011 the Landlord was required to carry out such work as was necessary to ensure that the house meets the repairing standard and in particular the following specific areas: -

1. To carry out such works as are necessary to provide effective and functioning light fittings in the side bedroom and kitchen.
2. To produce an electrical safety certificate.

Motherwell 17 March 2019

This is the re-inspection report
issued to the Tribunal
Decision of 17 March 2019

J Bonnar

3. To affix a ceiling rose to the ceiling light in the computer room.
4. To carry out such works as are necessary to ensure that the bathroom door and the computer room door fit their frames and open and close in the proper manner.
5. To repair, replace or adjust the external door from the porch to the garden to ensure the door fits the frame.
6. To repair, replace or adjust the door from the kitchen to the porch to ensure the door fits its frame, is rendered weatherproof and is capable of being locked.
7. To provide a hard wired smoke alarm as required by Statute

Background Information

Mrs Hunter purchased the property, with her husband some six years ago and, with her family, have occupied the house as a family home since. They were unaware of the outstanding RSEO at point of sale and have now been made aware by the HPC. The house is being systematically modernised and although habitable is currently around 80% complete.

Works In RSEO Carried Out

1. Functioning light fittings have been provided in the side bedroom and kitchen.
2. A ceiling rose has been provided to the ceiling light in the computer room.
3. The bathroom door and the computer room door fit their frames and open and close in the proper manner.
4. The porch door no longer exists.

5. The door from the kitchen to the former porch has been replaced with a suitable external door.
6. Suitable fire detection equipment has been provided.

Works In RSEO Outstanding

1. No electrical condition report is available. It should be noted, however, that there is no requirement for one in a domestic residence.

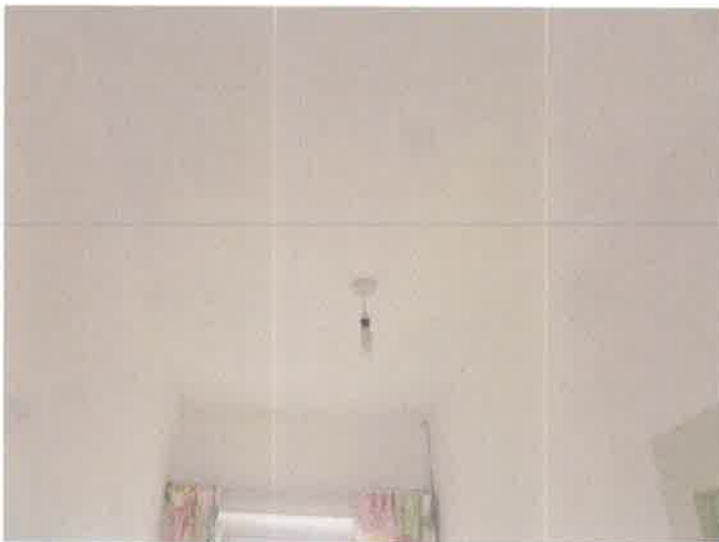
Photographs



1. Light fittings and heat detector in kitchen.



2. New light fitting to side bedroom bedroom



3. Ceiling rose computer room.



4. Bathroom door



5. Hall smoke alarm.



6. New external door to kitchen

Comments

This Report will be referred to the Tribunal of the Housing and Property Chamber, First-tier Tribunal For Scotland for their consideration and further action.

Andrew Taylor MRICS

Surveyor Member, Housing and Property Chamber, First-tier Tribunal For Scotland

26th February 2019

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Revocation of Repairing Standard Enforcement Order: Housing (Scotland) Act 2006 Section 25

Chamber Ref: PRHP/ML1/169/10

Title no: LAN18650

34 Orchard Street, Motherwell, ML1 3JD ("the property")

The Parties: -

Stefan Ehrendofer, 67 Avon Street, Motherwell ("the former Landlord")

Hazel Matthews, formerly of 34 Orchard Street, Motherwell ("the former Tenant")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') having determined on 17 March 2019 that the work required by the Repairing Standard Enforcement Order relative to the property is no longer necessary, the said **Repairing Standard Enforcement Order is hereby revoked.**

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.

In terms of Section 63 of the Act, 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.

In witness whereof these presents type written are executed by Josephine Bonnar, Solicitor, Legal Member of the Tribunal at Motherwell on 17 March 2019 before this witness:-

G Bonnar

Witness

J Bonnar

Legal Member

Gerard Bonnar _____

1 Carlton Place, Glasgow

Michelle Owens
First Tier Tribunal (Housing and Property Chamber)
Glasgow Tribunals Centre
20 York Street
Glasgow
G2 8 GT

Dear Michelle

PRHP/ML1/169/10

Please find enclosed the decision and Revocation of the RSEO in relation to this case.

Many thanks

Josephine Bonnar