

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier tribunal for Scotland under Section 60 of the Housing (Scotland) Act 2006

Chamber Reference: FTS/HPC/RT/20/2558

Property: 41 East Bridge Street, Falkirk FK1 1YB (“the Property/house”)

Land Register No: STG23413

Parties:

Falkirk Council Private Sector Team, The Forum, Callendar Business Park, Falkirk FK1 1XR (“Third Party Applicant”)

Mr Stephen Dick, 25 Waters End, Carron, Falkirk FK2 8PY (“the Landlord”)

M/s Alison McCue, 41 East Bridge Street, Falkirk FK2 1YB (“Interested Person/Tenant”)

Tribunal Members: George Clark (Legal Member/Chair) and Sara Hesp (Ordinary/surveyor Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order made by the Tribunal on 25 October 2021, determined that the Landlord has now complied with the Order and that a Certificate of Completion of Works should be issued.

Background

By application, received by the Tribunal on 9 December 2020, the Third Party Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland (“the Tribunal”) for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1) of the Housing (Scotland) Act 2006 (“the Act”).

The application stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard.

Following an inspection and Hearing held on 7 October 2021, the Tribunal made a Repairing Standard Enforcement Order ("the Order"). The Order, dated 25 October 2021, required the Landlord:

1. to carry out such works as are required to ensure that the provision of smoke detectors and heat detectors within the Property complies with the Fire Protection in Rented Properties Guidance published by the Scottish Government on 7 February 2019, effective 1 March 2019 and available on the Scottish Government website.
2. to exhibit to the Tribunal a satisfactory current Electrical Installation Condition Report, containing no C1 or C2 items of disrepair and covering the entire electrical installation, the Report to be issued by an electrical contractor who is registered either with NICEIC, SELECT or NAPIT.
3. to instruct a suitably qualified Gas Safe engineer to carry out such work as is necessary to ensure the central and water heating boiler is safe and in proper working order, or to replace the boiler, and thereafter to exhibit to the Tribunal a Gas Safety Certificate, dated after the date of completion of that work, and to carry out such repairs to the radiators as are required to ensure they are in a reasonable state of repair and in proper working order.
4. to carry out such repairs as are necessary to the front door to ensure that the door handle (and door locking mechanism) are in proper working order.
5. to carry out such work as is necessary to ensure the front doorbell is functioning properly.
6. to carry out such work as is necessary to establish the cause(s) of mould growth in the entrance hallway and elsewhere in the Property and undertake the necessary remedial work, including plasterwork and redecoration.
7. to carry out such repairs/replacements as may be necessary to ensure the windows throughout the Property are in proper working order and are secure, wind and watertight.
8. to carry out such repairs to the roof as are necessary to ensure the Property is wind and watertight.
9. to upgrade the loft insulation to ensure it complies with current recommended specifications.
10. to repair the leak from the sewage downpipe to the rear of the Property.
11. to carry out such works as are necessary to restore the kitchen units, cupboards and drawers to proper working order.
12. to carry out such repairs as are necessary to remedy the leaks from the plumbing in the kitchen sink, the shower and the bathroom wash hand basin.
13. to replace, fully or partially, the laminate flooring in the kitchen.
14. to secure/replace the toilet seat.
15. to replace the flooring in the entrance hall.

The Tribunal ordered that the works required by the Order must be carried out within the period of three months from the date of service of the Order.

On 6 June 2022, the Landlord provided the Tribunal with copies of a Gas Safety Certificate ("GSC") and an Electrical Installation Condition Report ("EICR"). Both

were dated 7 April 2022. The GSC, issued by R. Marshall Plumbing and Heating, Cowie, assessed the gas installation as Satisfactory. The EICR, issued by G.I.S. Electrical Limited, Falkirk also had an Overall Assessment of Satisfactory and did not contain any C1 or C2 items of disrepair.

The Tribunal reinspected the house on the morning of 4 July 2022. The Third Party Applicant was not present or represented. The Tenant had vacated the Property, so was no longer a Party to the proceedings.

The Tribunal noted at the Reinspection that there are now interlinked smoke alarms in the living room and hallway and first floor landing and a heat detector in the kitchen. The central heating boiler has been replaced. The front entrance door and doorbell are in proper working order. There is no evidence of ongoing mould growth in the entrance hallway or elsewhere in the Property. The windows are in proper working order and appear to be secure, wind and water tight. Extensive repairs have been carried out to the roof and the Property appears to be wind and water tight. The loft insulation has been upgraded as required, and the leak from the sewage pipe to the rear of the Property has been fixed. The kitchen has been renovated with new wall and floor units and the shower room has also been renovated. There is no evidence of leaks from the sink, the bathroom wash hand basin or shower. The laminate flooring in the bedroom has been replaced by a fitted carpet. The toilet has been replaced and the seat is secure. The flooring in the entrance hall has been replaced.

The Tribunal Members were content that all the work required by the Repairing Standard Enforcement Order had been carried out. The Tribunal was satisfied with the GSC but, as regards the EICR, the Tribunal required the Landlord to provide evidence that the electrical contractor is registered with NICEIC, SELECT or NAPIT. The Landlord said that he would investigate the matter and would provide the necessary evidence or, alternatively, a further EICR form a suitably registered contractor.

On 17 August 2022, the Landlord provided the Tribunal with a copy of an Electrical Installation Condition Report from Forth Electrics Limited dated 17 August 2022. It rated the overall condition of the installation as "Satisfactory" and contained no C1 or C2 items of disrepair.

Summary of the issues

The issues to be determined were whether the Landlord had carried out the works required by the Repairing Standard Enforcement Order made on 25 October 2021.

Reasons for the Decision

The Tribunal established that the contractors who issued the EICR are registered with NICEIC, and is satisfied that the one item outstanding from the RSEO had now been satisfactorily dealt with and that a Certificate of Completion of Works should, therefore, be issued.

The decision of the Tribunal was unanimous.

Right of Appeal

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.

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 Date: 23 August 2022

George Clark, Legal Member/Chairperson

