

Housing and Property Chamber First-tier Tribunal for Scotland



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

Determination: Statement relative to Certificate of Completion of work issued under Section 60 of the Housing (Scotland) Act 2006 (the 2006 Act).

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

Statement of Decision: Housing (Scotland) Act 2006: Section 25

Chamber Ref: FTS/HPC/RP/20/0875

253 Corkerhill Road, Glasgow, G52 1QR (“the Property”)

The Parties:-

Ms Kirsty Ann Stevenson (“the former Tenant”) and (“the Applicant”)

Mrs Kiranjit Nijjar (“the Landlord”) and (“the Respondent”)

Tribunal Members:

Mr Martin McAllister, solicitor, Legal Member, and Mrs Sara Hesp, chartered surveyor, Ordinary Member (“the tribunal”)

Background

1. By application dated 11th March 2020, the Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (“the 2006 Act”). The application is in terms of Section 22 of the 2006 Act.

2. Subsequent to an inspection of the Property, the tribunal made a repairing standard enforcement order (RSEO) on 26th August 2021 in respect of the Property.
3. The tenancy of the House had been lawfully terminated prior to the granting of the RSEO.
4. The RSEO was in the following terms:

**4.1 The Landlord is required to produce a report from a suitably qualified Gas Safe Registered engineer confirming that the boiler and associated central heating system is in proper working order to provide effective heating throughout the Property and an appropriate supply of hot water.
(Section 13 (1) (c) of the 2006 Act)**

**4.2 The Landlord is required to produce a certificate from a suitable qualified Gas Safe Registered Engineer confirming that the gas installation and associated appliances are safe.
(Section 13 (1) (c) of the Act).**

**4.3 The Landlord is required to make effective repairs to the kitchen ceiling.
(Section 13 (1) (a) of the 2006 Act).**

**4.4 The Landlord is required to remove any polystyrene ceiling tiles from the Property.
(Section 13 (1) (a) of the 2006 Act).**

**4.5 The Landlord is required to investigate the cause of water ingress to the kitchen and carry out any remedial work required.
(Section 13 (1) (a) of the 2006 Act).**

**4.6 The Landlord is required to ensure that the Property meets current standards for detecting fires and for giving warning in the event of fire or suspected fire.
(Section 13 (1) (f) of the 2006 Act).**

**4.7 The Landlord is required to ensure that the Property meets current standards for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
(Section 13 (1) (g) of the 2006 Act).**

The RSEO stated that the Landlord requires to comply with it by 30th November 2021.

Decision

The tribunal determined that the RSEO has been complied with.

Reasons

5. The ordinary member inspected the Property on 17th December 2021 and was accompanied by the legal member. An inspection report was prepared and sent to the Respondent.
6. A Hearing was held on 27th April 2022. The tribunal was satisfied that there had been partial compliance with the RSEO. It found that there has not been compliance with items 4.3, 4.5 and 4.6 of the RSEO.
7. The repairing standard enforcement order was varied to allow more time for the Landlord to complete the works. This variation was in terms of Section 25 of the Housing (Scotland) Act 2006.
8. The tribunal indicated at the Hearing that a reinspection of the Property may not be necessary if the Respondent produced satisfactory evidence that the outstanding works had been completed.
9. A Hearing which was scheduled for 8th August 2022 was postponed at the Respondent's request.
10. On 12th August 2022, the Respondent's representative submitted photographs of the Property and also certificate of installation and commissioning of fire detection and fire alarm systems dated 3rd August 2022.
11. The tribunal noted that photographs showed that repairs had been effected to the kitchen ceiling. The ceiling appeared to have been plastered and in a satisfactory condition.
12. The tribunal noted that it had a number of photographs of the Property and that these showed that the polystyrene ceiling tiles had been removed.
13. The tribunal noted the terms of a certificate of design, installation and commissioning of fire detection and fire alarm systems dated 3rd August 2022. The certificate states that three smoke alarms had been installed in halls and living room and that a heat alarm had been installed in the kitchen. The certificate states that the alarms are "mains and interlinked."
14. The tribunal had sight of photographs which appeared to show smoke and heat detectors in situ.
15. The tribunal determined that, on the balance of probabilities, the terms of the RSEO had been complied with. The tribunal was satisfied that the work had been completed and that it was appropriate to issue the Certificate of Completion in terms of Section 60 of the 2006 Act.

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.

M J McAllister

Martin J. McAllister, Solicitor,
Legal Member of the First-tier Tribunal for Scotland
23rd August 2022