

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: FTS/HPC/RP/17/0361

Title no: MID 14498

15 (1F4) Dalgety Avenue, Meadowbank, Edinburgh, EH7 5UQ ("The Property")

The Parties: -

Kathryn MacGregor, currently residing at Hearthside, Spey Avenue, Grantown on Spey ("the former Tenant")

James Eodanable, 18 Forest Park Road, Dundee, DD1 5NY; James Eodanable, Bein Cottage, Glenfarg, Perth, PH2 9PY ("the Landlord")

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 ("RSEO") relative to the property dated 20 December 2017 determined that the Landlord has complied with the order and that a certificate of completion to that effect should be issued.

The Tribunal comprised: -

Mrs Josephine Bonnar, Legal Member

Mr Mike Links, Ordinary Member

Background

1. By application received on 19 September 2017 the former Tenant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. 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. The Tenant stated that the Landlord had failed to ensure that (i) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order; and (ii) Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed. Specifically, the Tenant stated that the boiler in the flat provides insufficient hot water for a shower or bath, the shower provides insufficient hot water and inadequate flow to shower, there is a gas fire and hob but no information as to the gas supplier, the macerator in the kitchen is not working, the freezer was not working but has been replaced, the sofa smells strongly of urine and there is a foul smell in the property.
3. The First-tier Tribunal for Scotland served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the former Tenant on 23 October 2017. The parties were notified that an inspection and hearing would take place on 29 November 2017.
4. The Tribunal inspected the property on the morning of 29 November 2017. The Tenant's brother, David MacGregor, and her father, Donald MacGregor, were present. The letting agent for the property, Kjartan Behm of Braemore Property also attended. Neither the Tenant nor the Landlord were present.
5. Following the inspection of the property the Tribunal held a hearing at George House, 126 George Street, Edinburgh. David and Donald MacGregor attended on behalf of the former Tenant, who had recently been discharged from hospital, and was unable to attend. The Landlord, James Eodanable, attended with Kjartan Behm, the letting agent.

6. Following the hearing the Tribunal proceeded to make a RSEO in relation to the property. In terms of the RSEO the Landlord is required (1) to instruct a suitably qualified plumber to investigate the cause of poor water pressure from the shower and carry out such repairs as are recommended to improve the water pressure, or install a new hot water booster pump, (2) to instruct a suitably qualified plumber to investigate the cause of insufficient hot water being produced by the hot water tank and carry out such repairs as are recommended to rectify the problem, or replace the hot water tank, (3) to replace the faulty hot water immersion device with a new fully functioning device with timer, (4) to replace the sofa in the property with a sofa which is capable of being used safely for the purpose for which it is designed, and (5) to instruct a suitably qualified plumber to install plumbing fittings to the middle sink at the property so that the sink is capable of being used and water can drain away. The work was to be completed within 6 weeks of intimation to the parties of the RSEO.
7. Following the issue of the RSEO to the parties the Tenant notified the Tribunal that she had now vacated the property.
8. On 26 February 2018 the Landlord sought a postponement of the re-inspection scheduled for 2 March 2018 and requested a variation of the RSEO. The Landlord indicated that further time is required to complete the works as he intends a more extensive refurbishment of the property. An additional 4 months was requested.
9. The Tribunal granted the request for a postponement of the re-inspection and on 8 March 2018 issued a variation of the RSEO extending the time for completion of the work until 30 June 2018.
10. The Ordinary member of the Tribunal re-inspected the property on 6 August 2018. The Landlord was present. The Ordinary Member noted that since the original inspection a new gas fired central heating system has been installed with a combination boiler. This has resolved the poor water pressure, lack of hot water and faulty immersion device. The Ordinary Member also noted that the sink in the kitchen has been connected to the drainage system. It was noted however that the couch has not been replaced and remains in place in the property. A re-inspection report was issued to the Landlord.
11. By email dated 22 August 2018 the Landlord confirmed that the couch has now been removed from the property. By further email dated 7 September 2018 the Landlord provided photographs of a replacement couch, albeit still in its packaging and not yet assembled.

Reasons for decision

12. The Tribunal considered whether the work stipulated in the RSEO has been satisfactorily completed.
13. The Tribunal considered the condition of the property at re-inspection and the emails and photographs sent in by the landlord following issue of the re-inspection report. The Landlord has rectified the various problems with hot water at the property by installing a new boiler and central heating system. The defective sink has been repaired and a replacement couch purchased, although this still requires to be assembled. The Tribunal is therefore satisfied that the work required in terms of the RSEO has been completed and that a certificate of completion should be issued.

Decision

14. The Tribunal determined that the Landlord has complied with the RSEO and proceeded to issue a certificate of completion.
15. 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.

J Bonnar

Signed...

..... 30 September 2018

Josephine Bonnar, Legal Member