

# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

### Statement of Decision under sections 27(4) and 60 of the Housing (Scotland) Act 2006 ("the 2006 Act")

**Chamber Ref: FTS/HPC/RP/18/0302**

**Property at 11 Catriona Way, Holytown, North Lanarkshire, ML1 4NU  
("The House")**

#### **The Parties:-**

Ms Kelly Anne Ward, residing at 11 Catriona Way, Holytown, North Lanarkshire, ML1 4NU ("the Tenant")

Mr Imran Ahmed, residing at 8 Sycamore Place, Motherwell, North Lanarkshire, ML1 5TN ("the Landlord")

North Lanarkshire Council, Public Health and Housing Team, Municipal Buildings, Kildonan Street, Coatbridge, ML5 3LF ("the Third Party Applicant")

#### **The Tribunal comprised:-**

Mrs Ruth O'Hare	-	Legal Member
Ms Lori Charles	-	Ordinary Member

#### **Decision**

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') unanimously determined that the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") dated 23 April 2018 and accordingly issued a completion certificate. The Tribunal further determined to revoke the Rent Relief Order made on 15<sup>th</sup> April 2019.

#### **Background**

2. Reference is made to the determination of the Tribunal dated 23 April 2018 which determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act in that he had failed to ensure the Property met the Repairing Standard. The Tribunal therefore imposed a Repairing Standard Enforcement Order ("RSEO"). The works required by the RSEO were:-

- (a) Repair or replace the gas cooker;

20

- (b) Repair or replace the radiators in the two bedrooms and ensure they are in proper working order;
- (c) Produce a gas safety certificate by a suitably qualified gas engineer following the works carried out in (a) and (b);
- (d) Instruct a Select/NICEIC qualified electrician to inspect the electrics throughout the house and thereafter to carry out any works required following such an inspection;
- (e) Install smoke and heat detectors in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under section 2 – Fire, sub-section 2.11 Communication;
- (f) Following completion of the works at (d), and (e), produce an electrical installation condition report by a suitably qualified electrician confirming that the electrical installations within the House are in safe condition and in proper working order;
- (g) Repair the waste pipe pertaining to the bath to ensure it is watertight and in a reasonable state of repair;
- (h) Repair the sealant around the bath to ensure it is watertight;
- (i) Carry out such works as are necessary to clear all mould from the house and redecorate the affected areas;
- (j) Carry out any redecoration required after completion of the above works.

The Tribunal required the works be completed within a period of four weeks from the date of service of the order.

3. On 28<sup>th</sup> June 2018 the Ordinary Member carried out a re-inspection of the property. It was noted that some items in the RSEO remained outstanding including the gas oven, the sealant around the bath and the internal redecoration. Furthermore an EICR had been produced which listed four items required urgent attention and two items required improvement. Water was also noted on the floor at the front door. The Tribunal held a further hearing on 14<sup>th</sup> September 2018 which the Landlord attended. Having heard submissions from the Landlord and having been assured that the works required would be completed, the Tribunal determined to vary the RSEO to extend the period of time for completion of the works by a period of six weeks and to instruct the Landlord to provide a report from a qualified plumber confirming that the pipework pertaining to the bath was in a reasonable state of repair and in proper working order. Reference is made to the decision of the Tribunal dated 27<sup>th</sup> September 2018 in this regard.
4. A further re-inspection was undertaken on 4<sup>th</sup> January 2019. The findings of the re-inspection were that none of the items highlighted on the EICR had

RO

been addressed, no repair had been undertaken to the sealant around the bath and the bath could not drain due to a blockage in the pipe, high moisture readings and water marks on the ceiling underneath the bathroom were noted and no internal decoration had been carried out. The report was circulated to parties however no comments were received.

5. The Tribunal considered that whilst the Landlord had complied in part with the terms of the RSEO, fundamental works were still outstanding and the urgent items highlighted on the EICR were of particular concern. The Tribunal therefore determined that the Landlord had failed to comply with the RSEO and made a Rent Relief Order at the rate of 70%. The Tribunal further concluded that in view of the Landlord's failure to comply with the order, notification should be given to the Local Authority in terms of section 26 of the Act. Reference is made to the decision of the Tribunal dated 15<sup>th</sup> April 2019 in this regard.
6. On 3 June 2019 the Landlord contacted the Tribunal to advise that the works were nearing completion. There followed correspondence between the Tribunal and the Landlord, in terms of which the Tribunal sought clarity on what works had been done and whether the outstanding items had been addressed. The Tribunal was unable to obtain assurance from the Landlord's correspondence and therefore a further hearing was assigned for 14th October 2019.
7. The Landlord attended the hearing on 14th October 2019. Neither the Tenant nor the Third Party Applicant were present. The Landlord advised that the works had now been completed. In particular, he produced an updated EICR and confirmed that the water ingress had been investigated by his contractor, repairs had been undertaken and the issue had now been resolved. However he had nothing from his contractor which identified what the cause of the water ingress was and what works had been done to resolve it. The Tribunal therefore issued a Notice of Direction requiring the Landlord to provide this information. The Landlord subsequently emailed the Tribunal with a letter from Rikki Cooza dated 23<sup>rd</sup> October 2019. The letter explained that the reason for the leaking pipes was grease and hair. The pipes had now been changed and new joints fixed. The bath panel had also been replaced and everything had been dried out. All of the work had now been carried out and the water ingress had been resolved. The Tribunal considered the terms of the letter however determined that it was not in a position to make a final determination of the matter without assessing the moisture levels within the property and therefore assigned a re-inspection.
8. A re-inspection took place on 24<sup>th</sup> January 2020. The Tenant was in attendance. The Landlord was represented by his wife Nzmalemran Ram. High moisture readings were found in the porch below the bathroom however the Tenant advised that there had been a water leak on 13<sup>th</sup> January 2020. The Landlord had instructed a plumber to fix the problem and there had been no further issues since then. A copy of the re-inspection report is attached herewith. The re-inspection report was issued to parties. The Landlord responded to confirm that he agreed with the findings in the report.

## **Reasons for Decision**

9. The Tribunal took into account the findings of the re-inspection and the written representations from the Landlord regarding the matter. The Tribunal was satisfied that it had sufficient information to make a determination of the application and it did not require to hold a further hearing.
10. The Tribunal was satisfied having regard to the findings of the various re-inspections and the documentary evidence produced by the Landlord that the works required by the RSEO had now been completed. Whilst there were moisture readings noted at the re-inspection on 23<sup>rd</sup> January 2020, the Tribunal was satisfied that these had arisen from a recent leak which had been addressed timeously by the Landlord and there had been no further water ingress since.
11. Accordingly the Tribunal determined to issue a completion certificate in respect of the RSEO dated 23<sup>rd</sup> April 2018. The Tribunal further determined to revoke the Rent Relief Order made on 15<sup>th</sup> April 2019 under section 27(4) of the 2006 Act.
12. 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.

**Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.**

R O'Hare

Signed

Ruth O'Hare  
Legal Member

17 March 2020