

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Sections 25(1) and 25(2) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RT/21/0126

Re: Property at (“the Property”) 42 Dykehead Place, Dundee DD4 6TL (“the Property”)

Parties:

Dundee City Council, Private Sector Services Unit, 5 City Square, Dundee DD1 3BA (“the Third Party Applicant”)

Ms Alison Williamson, sometime 42 Dykehead Place, Dundee DD4 6TL (“the Tenant”)

Mr Ghulam Qadar and Ms Zahida Qadar, 367 Clepington Road, Dundee DD3 8ED (“the Landlord”)

Tribunal Members:

George Clark (Legal Member/Chair) and Robert Buchan (Ordinary/surveyor Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to Vary the Repairing Standard Enforcement Order in respect of the Property made on 28 July 2021 and adjourned the Hearing to a later date, to be intimated to the Parties.

Background

1. On 28 July 2021, following a Hearing on 15 July 2021, the Tribunal decided that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) and made a Repairing Standard Enforcement Order (“RSEO”) in respect of the Property.

2. The RSEO required the Landlord, within the period of two months from the date of service of the RSEO:
 - a) To repair or replace the kitchen cupboard doors and underboards to ensure that the doors all open and close properly.
 - b) To obtain a report from a reputable firm of timber specialists in respect of damp/water ingress in the kitchen and provide the Tribunal with a copy of said report and details of any work carried out subsequent to the report, which work must satisfactorily remove the dampness, repair any damage to the floor and replace the floor below the boiler.
 - c) To provide the Tribunal with an Electrical Installation Condition Report prepared by a member of SELECT, NICEIC or NAPPIT and dated after the date of this order. The report must include reference to the provision and operation of the smoke, heat and carbon monoxide detectors, and to the safety of the power points below the sink and behind the washing machine.
 - d) To provide the Tenant with a replacement shower screen or curtain in the bathroom of the Property.
3. The Tribunal reinspected the Property on 18 December 2021 and, following a further Hearing on 29 March 2022, the Tribunal issued a Variation of the Order, extending to 30 April 2022 the period within which the works specified in the Order must be carried out and continuing the Hearing to a later date.
4. The continued Hearing took place by means of a telephone conference call on the morning of 9 May 2022. The Third-Party Applicant was represented by Mr Byron Young. The Landlord, Mr Qatar, also participated.
5. The Landlord had told the Tribunal at the Hearing on 29 March 2022 that he was awaiting a second report in connection with the damp/water ingress in the kitchen. He now confirmed that he had the second report and that he had instructed the work that it recommended, but the start of the work had been delayed due to the present tenants having COVID-19. He expected that the work would begin imminently. He would then instruct a joiner to cut and fit a suitable replacement wooden floor panel and to seal any residual gaps with a suitable sealant. He also undertook to provide the Tribunal with a copy of the second report.
6. Mr Young indicated to the Tribunal that he would be content to allow a further short period for the Landlord to carry out the necessary

remedial work and also to replace the floor panel in the cupboard housing the boiler.

Reasons for Decision

7. The Tribunal accepted that the remaining work required by the Order had been delayed due to the present tenants having contracted COVID-19 and decided that the Order should be varied to give the Landlord until 13 June 2022 to comply, after which date the Tribunal would reinspect the Property and hold a continued Hearing. The Tribunal stressed to the Landlord that he must ensure that there were no further delays. The Tribunal had given him the benefit of the doubt by allowing the previous extension and was doing so again. The Tribunal would not permit a third extension and, if the work is not completed satisfactorily by the date on which the Tribunal reinspect the Property, it would expect to issue a Failure to Comply Notice, which would be intimated to the local authority and, for possible prosecution, to Police Scotland.

8. The Tribunal's decision 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.

Clark

Signed
Date: 9 May 2022

George Clark (Legal Member/Chairman)