

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 24(1)

Reference number: FTS/HPC/RP/22/2485

Re: Property 8 Woodside Terrace, Cardenden, Fife, KY5 0LZ (“The property”)

Title Number: FFE15334

Parties:

Pawel Kwiatkowski, residing at 8 Woodside Terrace, Cardenden, Fife, KY5 0LZ (“the Tenant”)

Kathleen Reilly, residing at Inchdairine Cottages, Lochgelly, Fife KY5 0UL (“the Landlord”)

Tribunal Members:

P Doyle (Legal Member)

G Adams (Surveyor Member)

1. On 9 February 2023 the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) issued a decision requiring the Landlord to comply with the repairing standard enforcement order (“RSEO”) made by the tribunal 9 February 2023. On 9 May 2023 tribunal members inspected the property.

2. The RSEO required the landlord to

1. Instruct a suitably qualified Gas Safe registered engineer to repair or replace the gas central heating boiler, radiators and piping. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with a satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.

2. Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire electrical installation in the property and all electrical appliances and equipment supplied by the landlord and carry out all necessary remedial works to rectify any identified C1 and C2 categorised areas. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with a clear EICR and PAT prepared by a suitably qualified SELECT, NICEIC or NAPIT registered contractor.

3. Repair or replace the window to the rear of the living room.
4. Replace the vinyl flooring in the kitchen and bathroom.
5. Adjust the internal kitchen door and/or latch position to ensure that the latch engages without impairment into the door strike plate.
6. Repair or replace the extractor fans in both the bathroom and kitchen.
7. Find the source of the leak from the WC pedestal/cistern in the bathroom and either repair or replace, so that the toilet flush works properly and the toilet does not leak water.
8. Repair or replace the bath panel.
9. Remove broken fencing from the rear garden.
10. Repair or replace the broken balustrade surrounding the decking in the rear garden.
11. Clear all gutters and downpipes serving the property.

All within 28 days of service of the RSEO

3. On 9 May 2023, tribunal members reinspected the property. The Surveyor member took photographs of the property during that inspection. He then prepared a reinspection report, which was served on the parties. A copy of the Surveyor member's reinspection report is attached hereto.

4. On 9 May 2023 the tribunal members found that

1. There was a Gas Safety Certificate present within the Property dated 8 February 2023 prepared by Brian Farmer Plumbing and Heating Services. TRV controls were still noted to be missing such as within the Living Room and Kitchen.
2. No EICR or PAT have been submitted to the Tribunal to date and there was no evidence of any such certification on-site. The Distribution Board was inspected below the stairs and there was no test label evident (which is required to be installed as part of an EICR).
3. The Living Room window was able to be opened with some effort however the Tribunal was unable to close the window and it was noted that the tilt-turn mechanism remains defective.
4. The vinyl flooring within both the Kitchen and Bathroom remained in poor condition and extensively damaged.
5. The door, leading from the hall into the kitchen opens and closes, however the latch does not engage into the door strike plate with the latch noted to be in a dropped position whilst the handle is loose.

6. The extractor fan within the Bathroom has been replaced. It does not appear that any remedial works have been progressed to the Kitchen extractor fan with the external ventilation grille missing a top louvre.
7. Clear evidence of water escape as part of flushing the cistern was noted within the Bathroom with water appearing to discharge from the flush pipe connections.
8. The bath panel remains damaged and loose.
9. The rear fence remains as previously reported and damaged.
10. Balustrading to the decking and damage to the base rail in particular remains with balusters loose and not supported adequately.
11. It appears that vegetation to gutters has been removed.

4. The Surveyor Member's report was circulated to parties. None of the parties made any further representations.

5. The only reasonable conclusion the tribunal can come to is that the Landlord has chosen not to carry out the work required by the repairing standard enforcement order dated 9 May 2023. For that reason, the tribunal decided to impose a rent relief order. As the landlord has chosen not to carry out most of the repairs required, and the quality of the tenant's peaceful enjoyment of the property is adversely affected by the Landlord's decision, the tribunal decided that significant restriction of rental is merited. The tribunal therefore granted a Rent Relief Order for 20% of the monthly rental.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only 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.

Legal member of the tribunal

Dated: 22 June 2023