

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination under section 24(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/18/2350

Property at 21 Cheyne Street, Edinburgh, EH4 1JD
("The House")

The Parties:-

Mr Alastair Hogg, residing at 21 Cheyne Street, Edinburgh, EH4 1JD ("the Tenant")

Mr John Anderson, residing at 31 Cheyne Street, Stockbridge, Edinburgh, EH4 1JD
("the Landlord")

The Tribunal comprised:-

Mrs Ruth O'Hare - Legal Member
Mr Greig Adams - Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') unanimously determined that the Landlord had complied with the Repairing Standard duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006

Background

1. Reference is made to the decision of the Tribunal dated 20 February 2019 which determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"). The Tribunal therefore made a Repairing Standard Enforcement Order ("RSEO") requiring the Landlord to undertake the following works:-
 - (i) Repair or replace the gas boiler so that it is in a reasonable state of repair and in proper and safe working order;
 - (ii) Install a carbon monoxide detector in the property in accordance with the Scottish Government Statutory Guidance for the Provision of Carbon Monoxide Alarms in Private Rented Housing;
 - (iii) Instruct a qualified electrician to inspect the electrical installations and carry out such works as are necessary to ensure they are in a reasonable state

of repair and safe working order and produce a clear electrical installation condition report thereafter; and

- (iv) Carry out any redecoration required after completion of the above works.
2. The Tribunal subsequently varied the RSEO on 19 September 2019 to give the Landlord further time to carry out the works. Reference is made to the decision of the Tribunal dated 19 September 2019 in this regard.
 3. Following a further re-inspection on 10 January 2020 the Tribunal noted that fundamental matters were still outstanding including the absence of a gas safety certificate and electrical installation condition report, and the lack of carbon monoxide detectors. The Tribunal was therefore satisfied that there was no justification for a further variation of the order under section 25(3) of the Act and determined that the Landlord had failed to comply with the RSEO. Reference is made to the decision of the Tribunal dated 12 March 2020 in this regard. Notification was given to the Local Authority in terms of section 26 of the Act, given the concerns the Tribunal had regarding the Landlord's failure to comply with key legal duties.
 4. The Tribunal was subsequently contacted by Mr David Johnson, the nephew and guardian for the Landlord, who provided information as to the progression of various works at the property. A re-inspection was therefore arranged for 14 November 2022. The Ordinary Member attended the property. Mr Johnson was present on behalf of the Landlord. The re-inspection found:-
 - (i) The gas boiler had been replaced and was considered to be in good working order. Evidence of servicing was evident by a Gas Safe registered engineer dated 14 January 2022.
 - (ii) A carbon monoxide detector was present within the kitchen.
 - (iii) Mr Johnson presented an Electrical Installation Condition Report dated 17 May 2021 which confirmed the installation to be in a reasonable state of repair and in proper working order. A new consumer unit was also noted in the hall.
 - (iv) All necessary redecoration works required as a result of the above works had been completed.
 - (v) A Gas Safety Certificate dated 19 September 2022 was evidenced which met requirements.
 - (vi) A new heat detector had been installed within the kitchen whilst smoke detectors had been installed in the hall and living room.

Reasons for Decision

5. The Tribunal considered it had sufficient information, based on the findings of the re-inspection, to make a determination of the issues to be resolved and it did not require to hold a hearing in the matter.

6. The Tribunal was satisfied based on the outcome of the reinspection that the works required by the RSEO had been completed and the Landlord had therefore complied with his duty to ensure the property met the Repairing Standard. 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.

Ruth O'Hare
Chairperson

Date – 2 February 2023