

Housing and Property Chamber

First-tier Tribunal for Scotland



The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")
Statement of decision to issue a certificate of completion and to revoke Rent Relief Order
("RRO") in terms of sections 60 and 27 (4) of the Housing (Scotland) Act 2006 ("the Act")
Chamber Ref: FTS/HPC/RP/20/1988

Title number: ELN7306

Re: 16 Robertson Avenue, Prestonpans, EH32 9AL ("the property")

The Parties:

Miss Elaine Winters, 16 Robertson Avenue, Prestonpans, EH32 9AL ("the tenant")

Ms Jurgita Friis-Jorgensen, 921-k Eatrada Municipal, U 537 Faro, 8600-210, Praia Da Lagos,
Portugal; 6 Caraben Brae, Dolphinton, West Linton, EH46 7HF ("the landlord")

Represented by Stuart Miller, Northwood, 13 Comely Bank Road, Edinburgh, EH4 1DR
("the landlord's representative")

Tribunal Members: - Simone Sweeney (Legal Chair) and Sara Hesp (Ordinary member)

Decision of Tribunal:

The Tribunal, having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the requirements of the Repairing Standard Enforcement Order ("RSEO") of 26th August 2021, determined that the landlord has complied with the RSEO, that a certificate of completion be granted in terms of section 60 of the Act and that the RRO of 9th June 2022 be revoked, in terms of section 27 (4) of the Act.

The decision of the Tribunal is unanimous.

Background

1. Reference is made to earlier procedure, in particular, the terms of the RSEO of 26th August 2021, Failure to Comply decision and RRO of 9th June 2022 and accompanying statements of decision.
2. The Failure to Comply decision and RRO of 9th June 2022 were issued on the basis of the Tribunal's determination that the landlord had failed to comply with the second requirement of the RSEO ie, to, *"complete any other work necessary to ensure that the flooring in the kitchen is in a reasonable state and in proper working order."*
3. By email dated, 13th July 2022 the landlord's representative challenged the Tribunal's decision and provided photographs of the kitchen flooring from 29th June 2022. Insofar as is relevant, the email provided, *"...we would request a completion statement/certificate in relation to the findings of the tribunal and removal of the RRO."*
4. The representative accepted that initial repairs to the flooring of the kitchen had not been carried out to a satisfactory standard. However this had since been addressed and the present position was that all necessary works had been completed to the flooring of the kitchen in satisfaction of the terms of the RSEO:

"At his own expense the contractor replaced more of the subfloor and then re-laid the Lino and fitted door threshers to both doorways. On completion of the works he has sent the attached pictures and has also had the Tenant sign off a satisfaction note, also attached."

5. To assist the Tribunal in consideration of the landlord's challenge, further information and clarity was sought through a direction of the Tribunal dated, 5th August 2022.
6. The landlord's representative responded to the direction providing information and additional photographs all under cover of email dated, 19th August 2022. Reference is made to the terms of the direction and content of the email of 19th August 2022.
7. The email and attached information from the landlord was intimated to the tenant who has not indicated that there is anything contained therein with which she disagrees.

Reasons for decision

8. The landlord's representative submits that the additional photographs show the kitchen flooring as at 29th June 2022. The photographs are produced by the landlord's contractor, White Eagle Repair which undertook the work to the flooring on 29th June 2022.
9. It is submitted further that, on 29th June 2022, White Eagle Repair, *"levelled the floor and placed threshold bars down to secure the areas where the lino was lifting."*
10. The Tribunal is satisfied the landlord has instructed a reputable contractor to apply new flooring to the kitchen and the photographs show that, as at 29th June 2022, the kitchen flooring is in a reasonable state and in proper working all as required by the RSEO of 26th August 2022.

Reasons for granting Certificate of Completion under section 60 of the Act

11. Section 60 of the Act provides:

60 Certification

"(1) A person who is required to carry out work by—

(a) a work notice, or

(b) a repairing standard enforcement order,

may apply for certification that the work has been completed.

(2) An application under subsection (1) is to be made—

(a) where it is made in consequence of a work notice, to the local authority, or

(b) where it is made in consequence of a repairing standard enforcement order, to the First-tier Tribunal.

(3) Where the work was carried out by the local authority under section 35 or 36, an application under this section is not competent unless the applicant has paid any expenses demanded by the local authority under section 59 in relation to that work.

(4) The local authority or, as the case may be, the First-tier Tribunal must grant the certificate applied for if satisfied that the work required by the notice or order has been completed.

(5) The First-tier Tribunal may, of its own accord—

(a) inspect any house in respect of which it has made a repairing standard enforcement order, and

(b) if it is satisfied that the work required by the order has been completed, certify that the work has been completed,

but the First-tier Tribunal may not exercise its

power under this subsection unless the period within which the order requires the work to be carried out has ended."

61. The landlord was required to carry out work by an RSEO in terms of section 60 (1) (b) and has applied for certification that work has been completed.
62. On the basis of the representations for the landlord by email of 19th August 2022 to which there has been no challenge by the tenant, the Tribunal is satisfied that the landlord has now complied with all terms of the RSEO.
63. Against this background the Tribunal *must* grant a certificate of completion in terms of section 60 (4) of the Act. Accordingly a certificate of completion is attached.

Reasons for revoking RRO under section 27 of the Act

64. Section 27 (4) of the Act provides:-

"The First-tier Tribunal may decide to revoke a rent relief order at any time; and the First-tier Tribunal must decide to do so if-

(a) the repairing standard enforcement order to which the rent relief order relates is revoked, or

(b) a certificate is granted under section 60 in relation to the work required by that repairing standard enforcement order."

65. Having granted a certificate of completion in terms of section 60 of the Act, the Tribunal *must* revoke the RRO. Accordingly the Tribunal revokes the RRO of 9th June 2022.

Appeals

66. 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.

67. 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.

68. If an application for permission to appeal is received, the Tribunal will notify you of this and the eventual outcome of that application and any subsequent

