

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 60 of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22(1) of the Act

Chamber Reference number: FTC/HPC/RT/22/2939

Parties:

1. Mr. William Moultrie, residing at Dildawn House, Kelton, Castle Douglas, DG7 1SE (“the Landlord”)

Property: 2B, Dildawn Estate, Kelton, Castle Douglas, DG7 1SE being part and portion of the subjects registered in the Land Register of Scotland under title sheet number KRK9474.

Tribunal Members

- K Moore (Chairperson)
N Allan (Ordinary Member)

Decision

The Tribunal determined that the Landlord has complied with the Repairing Standard Enforcement Order (RSEO) made by it on 22 November 2022 as varied by Variation of RSEO dated 6 January 2023.

Background

1. By application received on 19 August 2022 (“the Application”), Dumfries and Galloway Council as Third -party Applicant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a), 13 (1) (c) 13(1) (f) and 13(1) (h) of the Act.
2. Following an Inspection of the Property and a Hearing, the Tribunal imposed the RSEO as follows:
“The Landlord must on or before 28 February 2023 carry out all of the following:-
 1. *Instruct a damp proofing specialist registered with the Property Care Association or similar trade organisation to carry out an inspection of the Property with a view to identifying the extent and causes of the dampness in the hallway and bedroom, of the Property, provide a fully documented report on their findings and recommend works to remedy the dampness and rectify*

any damage caused by the dampness ("the Dampness Report"). The instruction to the specialist should include a copy of this RESO, the said Decision of Tribunal and the Tribunal's Inspection Report;

- 2. Submit the Dampness Report to the Tribunal, the Third-party Applicant and the Tenant;*
- 3. Instruct a contractor or contractors capable of providing a guarantee or warranty to carry out all works recommended by the Dampness Report;*
- 4. Repair or replace the broken sash window in the living room;*
- 5. Repair or replace the front door of the Property, and, if necessary, its surrounds, to ensure that it is wind and watertight;*
- 6. Instruct a suitably qualified SELECT, NAPIT or NICEIC electrician and/or Gas Safe registered heating engineer to repair or replace the heating and hot water system in the Property to ensure that the heating and hot water installation is safe, functional and in proper working order;*
- 7. Instruct a suitably qualified contractor to carry out an inspection of the macerator sanitation system in the Property with a view to identifying the extent and causes of the blocked toilet bowl, provide a fully documented report on their findings and recommend works to remedy and rectify all defects in the system ("the Sanitation Report").*
- 8. Submit the Sanitation Report to the Tribunal, the Third-party Applicant and the Tenant;*
- 9. Instruct a contractor or contractors capable of providing a guarantee or warranty to carry out all works recommended by the Sanitation Report;*
- 10. Instruct a SELECT, NAPIT or NICEIC electrician (i) to carry out a full inspection of the electrical installation throughout the Property, the purpose of which inspection is to ensure that the electrical installation in the Property and the Landlord's appliances therein are safe and fit for purpose (ii) to repair, replace or renew any parts which require to be renewed, replaced or repaired to ensure the installation is fully functioning and meets current regulatory standards and (iii) thereafter to issue a complete and compliant electrical installation condition report ("EICR") and/or an Electrical Installation Certificate in accordance with the Scottish Government statutory guidance on electrical installations and appliances in private rented property and exhibit the EICR to the Tribunal. This should include testing and certification of all electrical appliances provided by the Landlord;*
- 11. Install an interlinked mains-powered smoke alarms or tamper proof long-life lithium battery alarms are installed in the living room of the Property and*
- 12. Make good décor damaged as a result of these works."*

Section 25 (3)

- 3. Following notification of the RSEO, the Landlord advised the Tribunal that he had encountered difficulties in accessing the Property to comply with the RSEO. Therefore, the Tribunal varied the RSEO to allow the Landlord a further time to comply with the RSEO as varied.*

Hearing

4. A Hearing by telephone conference call was fixed for 26 May 2023 at 10.00 am. The Third -party Applicant was not represented at the Hearing. The Landlord was present.
5. Prior to the Hearing the Landlord submitted photographic evidence that the majority of the works and actions required by the RSEO and recommended in the Tribunal's Decision have been carried out. The Landlord also advised that the Dampness Report required by the RSEO had been instructed.
6. At the Hearing, the Landlord confirmed that the only matter still required is the Dampness Report, the survey for which is due to be carried out on 7 June 2023.
7. Accordingly, the Tribunal adjourned the Hearing for the Dampness Report to be submitted. The Tribunal advised the Landlord not to instruct any works which might be recommended by the Dampness Report until it had been submitted and considered by the Tribunal.
8. By email dated 8 June 2023, the Landlord submitted a Dampness Report in terms satisfactory to the Tribunal. Accordingly, the Tribunal found that the Property is in a condition which satisfies the statutory Repairing Standard.

Decision and Reasons for Decision

9. The Tribunal, having found that satisfactory repairs have been carried out, was satisfied in terms of Section 60(5)(b) that the RSEO had been complied with and so granted a Certificate of Completion.

Appeal

10. 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.
11. 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.

Signed

K Moore, Chairperson

12 June 2023