

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier tribunal for Scotland under Section 26 of the Housing (Scotland) Act 2006

Property: Flat 2/2, 110 Lochdochart Road, Glasgow G34 0DF (“the Property”)

Title No: GLA38224

Chamber Reference: FTS/HPC/RP/18/2978

Ejehiokhin Ibhaze, sometime Flat 2/2, 110 Lochdochart Road, Glasgow G34 0DF (“the Tenant”)

Gillian McKechnie, 235 Crofthill Road, Glasgow G44 5NW (“the Landlord”)

Tribunal Members – George Clark (Legal Member/Chairperson) and Mike Links (Ordinary Member/Surveyor)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order made by the Tribunal on 15 January 2019, determined that the Order has now been complied with and that a Certificate of Completion of Works should be issued,

Background

By application received on 2 November 2018, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland ("the Tribunal") for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the 2006 Act").

The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard.

Following an inspection and hearing held on 15 January 2019, the Tribunal made a Repairing Standard Enforcement Order ("the Order"). The Order required the Landlord to complete the following within a period of five weeks from the date of service of the Order:-

(1) to carry out such works as are necessary to the central heating boiler and system to ensure it is in proper working order, or alternatively, to replace the boiler, the work to be undertaken by a Gas Safe registered engineer, and thereafter to exhibit an up to date Gas Safety Certificate after completion of the repair/renewal.

(2) to clean off mould throughout the Property and make good any decoration.

(3) to carry out such repairs as are necessary to ensure the ceiling pendant lights throughout the Property and the fluorescent light in the kitchen are in proper working order, the work to be carried out by an electrical contractor who is registered with NICEIC, SELECT or NAPIT, and thereafter to produce to the Tribunal a satisfactory Electrical Installation Condition Report which must also cover the electric shower in the bathroom.

(4) to carry out such repairs as are necessary to ensure the door to the balcony is in proper working order and is capable of being locked and unlocked and

(5) to investigate the cause of a water leak from the bathroom into the flat below the Property and carry out such repairs as are necessary.

The Ordinary Member of the Tribunal attempted to reinspect the Property on 3 April 2019 but was unable to gain entry. The front door of the Property was boarded up and it appeared to be unoccupied. The Tenant had advised the Tribunal by e-mail on 1 February 2019 that he and his family had lawfully vacated the Property. The Landlord was advised of the date and time for a further inspection and Hearing.

The Tribunal Members arrived to reinspect the Property on the morning of 16 September 2019 but were unable to gain entry. The front door remained boarded up and the Landlord was not present or represented.

The Tribunal was unable to determine whether any of the works required by the Repairing Standard Enforcement Order had been carried out, but determined that the Landlord had failed to comply with the Order as the documentation required by the Order, namely a Gas Safety Certificate and an Electrical Installation Condition Report, had not been exhibited or produced. The Tribunal was, therefore bound, in terms of Section 26(2) of the 2006 Act, to serve notice of the failure on the local authority and to decide whether to make a Rent Relief Order.

On 11 May 2023, Lochfield Park Housing Association advised the Tribunal that they are now the owners of the Property. They provided copy Invoices in support of their statement that the Property has been completely refurbished, together with an Electrical Installation Condition Report (“EICR”) dated 6 April 2023, rating the installation as Satisfactory and containing no C1 or C2 items of disrepair, and a Gas Safety Certificate (“GSC”) dated 9 February 2023. The Housing Association subsequently confirmed that a carbon monoxide monitor had been installed in the bedroom where the boiler is located.

Summary of the issues

The issue to be determined was whether the works required by the Repairing Standard Enforcement Order made on 15 January 2019 had been carried out.

Reasons for the decision

The Tribunal was satisfied from the evidence provided that the Property has been refurbished by a Housing Association and that, in the circumstances, it was not necessary to inspect it again. The Tribunal was also satisfied with the EICR and the GSC.

The decision of the Tribunal 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.

G Clark

Signed

Date 30 May 2023

