

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: issued under Sections 26 and 60 of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22(1) of the Act

Chamber Ref: FTS/HPC/RP/21/1246

Re: Property at 44A Albert Road, Gourock, PA19 1NL registered in the Registers of Scotland under Title Number REN36337 (“the Property”)

The Parties:

Mark Rodger, care of his agents Best Move at Blair & Bryden, solicitors, 4 Cathcart Square, Greenock, PA15 1BS, (“the Landlord”) per his agent, Ms. Linda Swan of the said Best Move (“the Landlord’s Agent”)

Tribunal Members:

Karen Moore (Chairman) and Donald Wooley (Ordinary Member)

Decision

The Tribunal determined that the Landlord has complied with the Repairing Standard Enforcement Order (RSEO) made by it on 2 November 2021 and that for the reasons set out below.

This Decision should be read in conjunction with Decision and RSEO both dated 2 November 2021

Background

1. By application received between 25 May 2021 and 2 June 2021 (“the Application”), the then tenant of the Property 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 Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13(1)(a), 13(1) (b), 13(1) (c), 13(1) (d), and 13(1) (f) of the Act. A letter from Inverclyde Council formed part of the Application.
2. A Case Management Discussion (“CMD”) took place on 10 August 2021 at 10.00 by telephone conference call at which the then tenant’s representative and the

Landlord's Representative took part. The Tribunal adjourned the CMD for an Inspection and Hearing to take place and issued the Landlord as Respondent to the Application with the following Direction:

"The Respondent is directed to submit:

1. *Evidence (for example receipted invoices) setting out the works carried out at the Property in respect of the matters complained of in the Application;*
2. *A current Electrical Installation Condition Report (EICR) and Portable Appliance Testing (PAT) on appliances provided by the Respondent;*
3. *A current Gas Safety Certificate and*
4. *Evidence that interlinked mains-powered smoke alarms or tamper proof long-life lithium battery alarms are installed in (i) the room which is frequently used by the occupants for general daytime living purposes and (ii) every circulation space such as hallways or landings together with a similarly powered and interlinked heat alarm in the kitchen"*

3. The Landlord complied with this Direction.

First Inspection and Hearing

4. An Inspection and Hearing were fixed for 22 October 2021 and 29 October 2021 respectively after which the Tribunal determined that the Landlord had failed to comply with the duty imposed on him by Section 14(1)(b) of the Act and made the following RSEO: *"The Landlords must on or before 17 December 2021: -*
 1. *Instruct a suitably qualified contractor to undertake an inspection of the roof covering and associated leadwork and thereafter complete all necessary repairs required to ensure that the roof is wind and watertight, in a reasonable state of repair and in proper working order;*
 2. *Repair or renew the bathroom ceiling ensuring that it is in a reasonable state of repair and in proper working order and*
 3. *Make good and decoration associated with the completion of the foregoing works."*

Further Inspection

5. A further Inspection of the Property took place on 25 January 2022 at which the Tribunal noted that the terms of the RSEO had been complied with and issued an Inspection Report in this respect. The Inspection Report was issued to the Landlord for comment. The Landlord did not comment further.

Issue for the Tribunal

6. The issue for the Tribunal was whether the Landlord had complied with the RSEO and that in terms of Section 26 of the Act which states:- *"It is for the First-tier Tribunal to decide whether a landlord has complied with a repairing standard enforcement order made by the First-tier Tribunal."*

7. The Tribunal considered its powers in terms of the Rules and took the view that it was appropriate in all the circumstances to make a decision on the issue without a hearing and that in terms of Rule 18 of the Rules.

Decision and Reasons for Decision

8. The Tribunal had regard to the requirements of the RSEO and to its findings at the Further Inspection and found that the RSEO had been complied with. Accordingly, the Tribunal issued a Certificate of Completion in terms of Section 60(5)(b) of the Act.

Appeal

9. 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.

Signed

K Moore

Karen Moore, Chairperson

22 February 2022