

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006

Chamber Ref: PRHP/RP/13/0150

Property at: Flat 2/2 9 Pitfour Street, Dundee DD2 2NU
("the property")

The Parties

Mr Darren Paton residing at Flat 2/2 9 Pitfour Street, Dundee DD2 2NU (represented by his agent, Lindsay Watson, Dundee City Council, Dundee House, 50 North Lindsay Street, Dundee, DD1 1NB) ("the tenant")

Geoffrey Abbott, residing at 4 Thurso Crescent, Dundee, DD2 4AY ("the landlord")

Sasines Description the flatted dwelling-house known as and forming the eastmost house on the second floor of the tenement of buildings entering by the common stair at 9 Pitfour Street, Dundee, being the subjects described in and disposed by disposition in favour of Donald David Edwards recorded in the division of the General Register of Sasines for the county of Angus on 2 November 1966.

Tribunal Members:

Paul Doyle	Legal Member
David Godfrey	Ordinary Member

Unanimous Decision of the Tribunal

The First-tier tribunal for Scotland (Housing and Property Chamber) (Formerly the Private Rented Housing Panel)('the tribunal') declines to certify that the work required by the Repairing Standard Enforcement Order relative to the Property made on 20 August 2014 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property remains in place.

Background

(1) On 22nd August 2014 the Private Rented Housing Committee issued a decision requiring the Landlord to comply with the repairing standard enforcement order made by the Committee on 20th August 2014. The Committee members then were

Paul Doyle	Chairperson
David Godfrey	Surveyor Member
Christine Anderson	Housing Member

(2) The Repairing Standard Enforcement Order (“RSEO”) required the Landlord to

(i) Repair, refit and replace laminate flooring in the kitchen and the living room of this property

(ii) Remove the seal between the work-surface and the kitchen wall and replace it with an adequate, waterproof sealant.

(iii) Produce a satisfactory electrical installation condition report, dated after today’s date.

(iv) Replace the gas fire in the living room, and thereafter to obtain a gas safety certificate dated after today’s date

All within 28 Days of service of the RSEO on the Landlord.

(3) On 24 November 2014 the surveyor member of the Committee visited the property by prior arrangement to re-inspect the property. The surveyor member was not granted access to the property. As a result, The committee of the Private Rented Housing Panel served notice on the Local Authority on 8 April 2015.

(4) On 27 April 2017 the Ordinary Member of the Tribunal was granted access to the property to see whether or not the works required by the RSEO were completed. A copy of his reinspection report is attached here to and referred to for its terms.

(5) After inspecting the property, the Ordinary member concluded

Works in Repairing Standard Enforcement Order completed prior to re-inspection:

1. Linoleum has been fitted to the Kitchen and the Living Room has been carpeted.
2. Repairs have been carried out to the seal between the work-surface and the kitchen wall.

3. An Electrical Installation Condition Report (EICR) has been provided by DBS Electrical Limited dated 15th May 2015.
4. The landlord has provided confirmation that the gas supply has been terminated. Scottish Gas Networks inspected the property on 1st May 2015 and provided a report - reference number provided 112190204 and it was confirmed that the gas supply to the property was disconnected and made safe.

Works in Repairing Standard Enforcement Order outstanding following second re-inspection:

1. The linoleum in the Kitchen is uneven and poorly fitted.
2. The repairs to the seal between the work-surface and the kitchen wall have been carried out to a poor standard.
3. The first page of the Electrical Installation Condition Report (EICR) is missing and the Category 3 items were not carried out within the time scale specified in the report. Additionally, works are ongoing to the electrical wiring system and an electrician was present at the time of the re-inspection.
4. The gas fire in the Living Room has not been replaced

(6) On 22 May 2018 the ordinary member inspected the property again. After that reinspection the ordinary member concluded

Works in Repairing Standard Enforcement Order completed prior to present re-inspection:

1. The linoleum in the Kitchen has been replaced.
2. The Kitchen is presently being refitted.

Works in Repairing Standard Enforcement Order outstanding following this re-inspection:

1. Although the Kitchen is presently being refitted, the seal between the work-surface and the kitchen wall is still incomplete.
2. A satisfactory Electrical Installation Condition Report (EICR) has yet to be provided.
3. The gas fire in the Living Room has not been replaced and no alternative heating system has been provided.

The Ordinary' Members report was circulated to parties, none of whom made any further representations.

(7) The only conclusion that the Tribunal can come to is that almost four years after the RSEO was served on the landlord, the works have still not been completed. The tribunal therefore refuse to issue a certificate of completion of works in terms of s. 60 of the Housing (Scotland) Act 2006.

(8) 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.

(9) 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.

Paul Doyle

Signed
Legal Member



11 July 2018