

Housing and Property Chamber
First-tier Tribunal for Scotland



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

STATEMENT OF DECISION UNDER SECTION
26(1) OF THE HOUSING (SCOTLAND) ACT 2006

In connection with

Property at 97 Moraine Avenue, Glasgow G15 6HU, being the subjects more particularly described in Land Certificate Title Number GLA 170279 (hereinafter referred to as “the house”)

The Parties

Glasgow City Council, DRS Private Housing, 2nd floor, 231 George Street, Glasgow G1 1RX (“the third party applicant”)

Mr. Robert Fergie, 54 Aursbridge Crescent, Glasgow G78 2TJ and also 64 Stadyum Caddesi, No 64 Karsiyaka Girne, Cyprus (“the Landlord”)

Reference FTS/HPC/RT/19/1437

The Tribunal comprised Mrs. Aileen Devanny, Chamber President and Legal Member, and Mr. Nick Allan, Ordinary (Surveyor) Member.

DECISION

The First-tier Tribunal for Scotland sitting in the Housing and Property Chamber (“the Tribunal”), having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order dated 23

October 2019 and registered in the Land Register on 12 December 2019 (hereinafter referred to as "the RSEO") in relation to the house concerned, and taking account of the findings at the re-inspection of the property on 16 November 2021 and photographs produced by the Landlord subsequently confirming additional works have been completed since that re-inspection, the Tribunal considers that the Landlord has satisfactorily completed the works detailed in the RSEO and have decided to issue a certificate of completion of works in terms of Section 60 of the Act.

Background

1. Reference is made to the Determination of the Tribunal dated 23 October 2019 which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act and to the RSEO dated 23 October 2019 which confirmed that the Landlord had failed to ensure that (a) the structure and exterior of the property (including drains, gutters and external pipes) are in a reasonable state of repairs and proper working order; (b) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order; and (c) any fittings, fixtures and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

The RSEO required the Landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Tribunal required the Landlord to:-

- (a) carry out such works as are necessary to obtain a Gas Safety Certificate in respect of the property from a Gas Safe registered engineer and provide a copy of the Gas Safety Certificate to the Tribunal;*
- (b) instruct suitably qualified contractors to replace the cabinets in the kitchen and the gap between the sink and gas cooker to be cleared out, reinstated and boxed in at the same time all as necessary to ensure that the kitchen fittings are in a reasonable state of repair and in proper working order;*
- (c) instruct suitably qualified contractors to box in the sink and pipes in the bathroom and also to box in the gap between the bath panel and the wall as necessary to ensure that the bath fittings are in a reasonable state of repair and in proper working order;*
- (d) instruct suitably qualified contractors to clear and clean the front and rear*

guttering and rear downpipe as necessary to ensure the gutters and downpipes are in a reasonable state of repair and in proper working order;

(e) instruct suitably qualified contractors to repair or replace the fencing at the back of the property to be of a similar size and style to adjacent properties to provide security for the property and to ensure the said fencing is in a reasonable state of repair and in proper working order.

The said works specified in the order to be carried out and completed within a period of 10 weeks from the date of service of the Notice of the RSEO. The Notice of the RSEO and determination with statement of reasons was sent by e-mail to the parties on 28 October 2019. The e-mail used for the Landlord had been provided to the Tribunal by him previously.

2. Information was received from the third party applicant in January 2020 that they understood that the tenant had vacated the house.

3. The works were not completed within an extended timescale and a decision that there had been a failure to comply with the terms of the RSEO was issued on 8 April 2021 and intimation of that decision on the local authority followed.

4. The Landlord is intending to sell the house and the Tribunal was asked to arrange a re-inspection of the house to verify if the works detailed in the RSEO had been completed.

5. The Tribunal members inspected the house on 16 November 2021 and photographs were taken by the Tribunal members. In addition a gas safety certificate in respect of the property from a Gas Safe registered engineer was lodged by the Landlord with the Tribunal. The certificate is satisfactory in its terms satisfying requirement (a) in the RSEO.

The Tribunal is satisfied following the re-inspection that requirements (d) and (e) of the RSEO have been completed.

The re-inspection was attended by the Landlord's agent, Mr. Robert Howitt. The third party applicant did not attend. The house is unoccupied. The Tribunal observed that the works in requirement (c) of the RSEO had been completed in the bathroom with the exception there still remained a gap between the bath panel and the bathroom wall which required to be rectified. The Landlord's agent undertook to carry out this work and send a photograph to the Tribunal to evidence completion.

At the re-inspection the Tribunal observed in the kitchen that works had been carried out. However, below the sink the backing in a base cupboard was missing; kickboards were missing; the gap between the base units and the cooker required to be closed by edging strips; plasterwork below the light switch, which had been damaged, required to be finished to a satisfactory standard; and pipe chase in the kitchen required to be boxed in.

The Tribunal also noticed that two smoke detectors in the house, which had been previously present in the ceilings of lounge and upstairs landing, had been removed. They tribunal members observed that there was no heat alarm in the kitchen, which although was not a requirement of the RSEO, should be installed to meet the repairing standard.

The Landlord's agent undertook to carry out these additional works and provide photographs to evidence their completion. Accordingly, since the house was unoccupied, the Tribunal delayed issuing the decision to allow the Landlord time to complete the works and send in evidence to support this.

6. The Landlord submitted photographs to evidence the additional works and these were sent to the third party applicant along with a copy of the schedule of photographs of the works taken at the re-inspection. The third party applicant was given an opportunity to comment on the photographs and has chosen not to do so.

7. The Tribunal considers that all works required in the RSEO have now been completed. The Tribunal considers that a certificate of completion should be issued in terms of Section 60 of the Act. The members of the Tribunal were unanimous in their decision.

APPEAL PROVISIONS

A Landlord 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.

A Devanny

Mrs. A Devanny
Chamber President and Legal Member,
29 December 2021