

Housing and Property Chamber First-tier Tribunal for Scotland



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

Statement of Decision to Certify that the work required by a Repairing Standard Enforcement Order has been completed: Housing (Scotland) Act 2006, Section 60

Chamber Ref: FTS/HPC/RP/19/2020

17 Captains Drive, Edinburgh, EH16 6QN

("the property")

The Parties:-

Christopher Law, 17 Captains Drive, Edinburgh, EH16 6QN

("the tenant")

Afzal Boksh, c/o APM Lettings, 198 Morrison Street, Edinburgh EH3 8EB

("the landlord")

Tribunal Members:

Adrian Stalker (Chairman) and Colin Hepburn (Ordinary Member)

Decision

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), decided to certify that the work required by the Repairing Standard Enforcement Order ("RSEO") of 19 September 2019, has been completed, with effect from the date of service of this decision, and the relative certificate under section 60.

Background

1. Reference is made to the Tribunal's previous decisions in this case.
2. By its decision of 19 September 2019, the Tribunal determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act. In particular, the Tribunal determined that the property failed to meet the repairing standard in terms of section 13(1)(d), in that the uPVC windows were not in a reasonable state of repair and in proper working order.

3. The Tribunal made an RSEO under section 24 of the Act, also dated 19 September 2019, requiring the landlord to instruct a reputable contractor, specialising in glazing, to carry out an inspection of all of double-glazed uPVC windows at the property, and to:
 - (1) renew and replace the rubber sealing at each window, where necessary;
 - (2) carry out any repair or renewal necessary to the handles at each window;
 - (3) to carry out any other work necessary to put the double-glazed uPVC windows in a reasonable state of repair and in proper working order.
4. The Tribunal re-inspected the property on 17 December 2019. On that date, it was satisfied that the landlord had complied with the RSEO, in respect of all of the windows at the property, apart from the window in the lounge which faces onto the front garden. It could not be satisfied that that window was in a reasonable state of repair and in proper working order. Reference is made to the Tribunal's decision of 19 December 2019.
5. Thereafter, the Tribunal had correspondence with the parties, in an attempt to arrange a further re-inspection of the property, in order to determine whether there had been compliance with the RSEO, in respect of the window in the lounge which face onto the front garden.
6. A further re-inspection and hearing was fixed to take place, on 8 April 2020. However, that was cancelled, due to the restrictions imposed as a result of the Covid pandemic.
7. Eventually, a further re-inspection and hearing was arranged. The re-inspection took place on 11 June 2021. The hearing took place by telephone conference on 5 July.

Re-Inspection 11 June 2021

8. Both members of the Tribunal attended the inspection on 11 June. Mr Law, the tenant, was present. No one was in attendance for the landlord.
9. The Tribunal members looked at the uPVC double glazed window in the lounge which looks onto the front garden. The Tribunal considered that this window was in a reasonable state of repair and in proper working order. The handle was working satisfactorily. The Ordinary member was able to open and close the window, three times, without difficulty. The window was satisfactorily sealed, internally.

10. The tenant complained that one of the other windows, in the rear bedroom, was now broken. However, that has taken place since the Tribunal's decision, in December 2019, that the landlord had complied with the RSEO, in respect of that window. Accordingly, the tenant was advised that he would have to bring this disrepair to the attention of the landlord's agents, and if was not addressed, he could make a fresh complaint to the Tribunal.
11. The Tribunal was accordingly satisfied, at the reinspection, that the landlord had fully complied with the RSEO of 19 September 2019.

Hearing and Decision

12. The hearing took place by teleconference on 5 July at 10am. Mr Law, the tenant was in attendance, as was Ms Serena Singh, of APM Lettings, the landlord's letting agents.
13. The legal member of the Tribunal recounted the history of application, the terms of the RSEO, and the outcome of the inspection of 19 December 2019. He further explained that, at the inspection on 11 June 2021, the Tribunal members had found the front lounge window to be in a reasonable state of repair and in proper working order.
14. The legal member asked both Mr Law and Ms Singh whether they wished to make any comment or submission. Both indicated that they had no particular comment or submission to make. Both were advised that the Tribunal was minded to issue a certificate, under section 60 of the Housing (Scotland) Act 2006, confirming that the work specified in the RSEO had now been carried out. Again, neither Mr Law or Ms Singh had any particular comment on that course of action.
15. Accordingly, the Tribunal decided to certify that the work required by the RSEO has been completed. The section 60 Certificate is referred to for its terms.
16. The decision of the Tribunal was unanimous.
17. In terms of section 63 of the Housing (Scotland) Act 2006, this decision, and the variation, have effect from the date on which it is served.
18. **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.

19: 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 Stalker

Signed

Date **30 July 2021**

Chairman