

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision: Section 25(1) Housing (Scotland) Act 2006 (“ the Act”)

Chamber Reference Number: FTS/HPC/RP/20/0084

Title Number GLA53309

Flat 3/1 123 Deanston Drive, Glasgow. G41 3LJ (“the Property”)

The Parties:

Dr Johanna Jokio, Flat 3/1 123 Deanston Drive, Glasgow, G41 3LJ (“ the Tenant”)

Fiona Lambert Fraser, 10 Falcourt Close, Sutton, Surrey, SM1 2RQ (“the Landlord”)

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 Repairing Standard Enforcement Order (“RSEO”) relative to the property dated 18 March 2020 should be varied in terms of Section 25(1) of the Act, determined that the RSEO should be varied by extending the time for completion of the work until 17 July 2020.

The Tribunal comprised: -

Mrs Josephine Bonnar, Legal Member

Ms Carol Jones, Ordinary Member

Background

1. By application received on 13 January 2020 the Tenant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The Application stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the house meets the repairing standard. The Tenant stated that the Landlord has failed to ensure that (i) The house is wind and watertight and in all other respects reasonably fit for human habitation, and (ii) Any fixtures, fittings and appliances supplied by the Landlord under the tenancy are in a reasonable state of repair and in proper working order. Specifically, the Tenant complained that the bathroom is very cold due to draughts from the windows and a hole on the outside wall left unfilled from an old toilet pipe, increasing mould on the bathroom ceiling and the bathroom door cover detaching from its frame.
3. The First-tier Tribunal for Scotland served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the parties on 27 January 2020. The parties were notified that an inspection would take place on 9 March 2020 at 10am and that a hearing would take place on 9 March 2020 at 11.30 at Glasgow Tribunal Centre, York Street, Glasgow.
4. Prior to the date of the inspection and hearing both parties lodged written representations.
5. The Tribunal inspected the property on 9 March 2020. Ms Mitchell, from the letting agency attended on behalf of the Landlord. The Tenant was present. Thereafter the Tribunal held a hearing at Glasgow Tribunal Centre, York Street, Glasgow. Ms Michell and Ms Duncan, both from Speirs Gumley, attended on behalf of the Landlord. The Landlord did not attend. The Tenant attended.
6. Following the hearing the Tribunal issued a RSEO. In terms of the RSEO the Landlord is required, (i) To instruct a suitably qualified window contractor to inspect the bathroom windows at the property and carry out any necessary repairs to ensure that the property is wind and watertight and that the windows are in proper working order; or replace the windows, (ii) To complete the repair to the hole in the external bathroom wall, remove the back tape and ensure that the cover over the hole is properly secured and excludes draughts, (iii) To instruct a suitably qualified contractor to inspect the towel rail and carry out any necessary repairs to ensure that it generates sufficient heat or replace the towel rail, and (iv) To replace the

bathroom door and all associated fittings to ensure it is in proper working order. The work was to be completed within 4 weeks of the Order being issued.

7. On 13 April 2020, the Tribunal determined that the RSEO should be varied by extending the time for completion of the work until 20 June 2020. A variation of the RSEO was issued to the parties.
8. By emails dated 14 and 17 June 2020 the Landlord sought a further variation of the RSEO. The Landlord stated that further time was required as “all works have been quoted for but not completed due to hold ups at the suppliers.” They indicated that they expected to have the work completed by the end of June 2020. In the email of 17 June 2020 the Landlord provided information regarding the contractors who have been appointed to replace the bathroom door, replace the handles on the windows, cover the hole in the bathroom wall and install a new towel rail. On 16 June 2020, the Tenant confirmed that she had no objection to a further variation of the RSEO.

Reason for decision

9. The Tribunal considered the request for a variation of the RSEO.
10. The Tribunal notes that the RSEO was issued to the parties on the day that Government restrictions were introduced due to the Coronavirus and that the Landlord had not had the opportunity to implement the requirements of the RSEO before the lockdown began. The Tribunal also notes that the Landlord has made some progress and has identified and appointed contractors to carry out the work. Furthermore, the Tenant has confirmed that she has no objection to further time being given.
11. The Tribunal is satisfied that the Landlord may have difficulty arranging for contractors to carry out the required work during the Government lockdown and that additional time for completion of the work should be given.

Decision

12. The Tribunal determined that additional time should be allowed for completion of the work and that the RSEO should be varied by extending the time for completion of the work until 17 July 2020.
13. The decision of the Tribunal is unanimous

Right of Appeal.

A Landlord, Tenant or Third-party applicant 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.

In terms of Section 63 of the Act, 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.

Josephine Bonnar

Signed...

..... 19 June 2020

Josephine Bonnar, Legal Member