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

STATEMENT OF DECISION OF THE HOUSING AND PROPERTY CHAMBER OF THE FIRST-TIER TRIBUNAL FOR SCOTLAND UNDER SECTION 60(5) OF THE HOUSING (SCOTLAND) ACT 2006

Chamber Ref: FTS/HPC/RP/21/1895

Title no: FFE21835

34A High Street, Inverkeithing KY11 1NN
("the Property")

The Parties:-

Ms Teodora Gabriella Bokonyi, residing at 34A High Street, Inverkeithing KY11 1NN
("the Tenant")

Mr Steven Lessels, residing formerly at Fleets Villa, Elphinstone, Tranent, East Lothian EH33 2NE and now at 8-12 Church Street, Inverkeithing KY11 1LJ
("the Landlord")

The Tribunal

Richard Mill (Legal Member)
David Godfrey (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Landlord has complied with the Repairing Standard Enforcement Order in respect of the Property made on 2 March 2022 and that a Certificate of Completion should be issued in terms of Section 60(5) of the Housing (Scotland) Act 2006.

Background

1. The Tribunal made a Repairing Standard Enforcement Order (RSEO) dated 2 March 2022 which specified to the landlord:-

    1. The condemned gas fire in the living room requires to be repaired or removed and replaced with a suitable modern alternative.

    2. To provide a copy of an updated Gas Safety Certificate from a registered Gas Safe engineer, for the property which refers to the gas boiler, replacement gas fire and provision for carbon monoxide detection throughout the property.

    3. To install suitable mechanical ventilation in the kitchen, bathroom and the upstairs WC.

2. At the time of the Tribunal's re-inspection on 25 July 2022, the following was found:-

    a. Mechanical ventilation fans had been installed in the kitchen, bathroom and the upstairs WC.

    b. The gas fire in the living room was understood to have been repaired but was not operational at the time of inspection.

    c. A Gas Safety Certificate was not produced during the inspection and there was no carbon monoxide detector in the living room.

    Reference is made to the reinspection report and schedule of photographs dated 25 July 2022 which has been issued to parties.

3. The landlord subsequently provided an invoice and a Service/Maintenance Check List but this is not a gas safety certificate and is undated. This does not refer to the gas boiler and highlighted the absence of a carbon monoxide detector in the living room.

4. A Direction was issued on 28 July 2022 specifying the further documentation which was required by the landlord in order to obviate the need for the Tribunal to issue a Failure to Comply Decision. No

further relevant documentation was produced and by way of Decision dated 6 August 2022 the Tribunal issued a Failure to Comply Decision. Further representations were made by the landlord's representative thereafter seeking that that Decision be reviewed. Those applications were refused with reasons.

5. On 8 September 2022 the landlord's representative submitted further documentation to evidence the condition of the gas fire in the living room and the existence of a relevant carbon monoxide alarm. The following were produced:-

   a. An invoice dated 26 July 2022 in respect of the purchase of a carbon monoxide alarm.

   b. A photograph of a portable carbon monoxide alarm in situ in the living room of the property.

   c. An up to date gas safety record dated 7 September 2022 by a gas safety engineer, confirming that the gas boiler in the kitchen and gas fire in the living room are satisfactory and safe to use and that an operational carbon monoxide alarm is present.

6. The Tribunal was satisfied on the basis of the evidence of the condition of the property at the time of the re-inspection on 25 July 2022 together with the further produced documentation on behalf of the landlord on 8 September 2022 that there were no outstanding issues arising from the RSEO. The Tribunal accordingly determined that the landlord had complied with the Repairing Standard Enforcement Order made on 2 March 2022 and that a Certificate of Completion should in these circumstances be issued.

7. The Tribunal decided to dispense with any further hearing on the issue of compliance in order to expedite matters and to avoid unnecessary delay.

8. At the time of the Failure to Comply Decision, the Tribunal had also determined to make a Rent Relief Order in terms of Section 27 of the Act. That Order is no longer appropriate or necessary and, in the circumstances, the Rent Relief Order is also hereby revoked.

Right of 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.

10. 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.

In witness whereof these presents type written on this and the preceding page(s) are executed by Richard George Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the Tribunal at Edinburgh on 14 September 2022.