

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 Section 24(1)

Chamber Ref: FTS/HPC/RP/21/1933

3/1, 5 Couper Street, Glasgow, G4 0DP (“the Property”)

Parties:

James Gye, (“the former Tenant”)

Outland Properties Ltd (“the Landlord”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Lori Charles (Ordinary Member)

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 23 December 2021 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 30 October 2022

Background

1. The former Tenant lodged an application with the Tribunal in terms of Section 22 of the Housing (Scotland) Act 2006. The Tenant stated that the Landlord had failed to meet the repairing standard in relation to the property. In particular, two bedrooms in the property were affected by water ingress and dampness. Documents, including photographs, were lodged in support of the application. On 13 October 2021, the Landlord notified the Tribunal that repairs had been carried out and the Tenant had been compensated. On 15 October 2021, the Tenant notified the Tribunal that he wished to “remove” his application and stated that he was “trusting the landlord and letting agency that the issue has been

resolved". The Tribunal asked for further information about the repairs. The Landlord provided further information on 19 and 20 October 2021. They said that the Property Factor had arranged roof repairs and the Landlord had arranged for a window repair to be carried out. A further leak had been reported but this was a new issue which affected a different room and was not connected to the application. The Tenant did not respond to the Tribunal's request for further information. The Tribunal considered the Tenant's withdrawal of his application and determined that it would continue to consider the application in terms of Paragraph 7(3) of Schedule 2 of the 2006 Act.

2. The Landlord was notified that an inspection would take place on 9 December 2021 at 10.30am and that a hearing would take place by telephone conference call on 16 December 2021 at 10am.
3. The Tribunal inspected the property at 10.30am on 9 December 2021. Access was provided by one of the tenants, Mr Briody. The Landlord's representatives Ms McMillan and Mrs Waters attended.
4. Following the inspection, the Landlord's representatives lodged written representations, an email from the Property Factor and a chronology of events from 8 March 2021 to date. The email from the Property Factor was dated 25 November 2021. It states that a roof repair was carried out on 24 November. The contractor had identified an area above the ingress where the OBS Board/Felt had completely deteriorated. This had been replaced. The chronology indicated that there had been a window repair in the first bedroom on 5 October 2021, a further report of water ingress from the tenant of the second bedroom on 18 October 2021, a roof repair (three broken tiles replaced) on 20 October 2021, a further report of water ingress in relation to the second bedroom on 28 October 2021 and a roof repair on 24 November 2021. The submissions stated that the Landlord has discovered that the roof is defective but that the various proprietors in the block refused to agree to pay for this to be repaired in 2017 as it was going to cost £70,000.
5. The hearing took place by telephone conference call on 16 December 2021 at 10am by telephone conference call. The Tenant did not participate as he was no longer a party to the application. The Landlord was represented by Mrs Waters and Ms McMillan (the agents"). Following the hearing the Tribunal issued an RSEO. This stipulated that the Landlord was required to "instruct a suitably qualified contractor to investigate the cause of water ingress and dampness within the bedrooms on the lower floor of the property and carry out all necessary and recommended remedial work to prevent any further water ingress and dampness". The order stated that the work was to be completed within 3 months.

6. On 10 March 2022, the Landlord's representative lodged submissions, a report from a roofing contractor and photographs. The parties were notified that the Tribunal would re-inspect the property on 8 June 2022. The Tribunal attended on this date. Access was provided by the agents. The Tribunal noted that the property is currently unoccupied. The Tribunal re-inspected the bedrooms on the lower floor. In the smaller bedroom they noted evidence of water ingress at the window, with moisture readings between amber and green. In the larger bedroom they noted evidence of water ingress at the underside of the window, with moisture readings between red/amber and green in sections. A report with photographs was issued to the Landlord.
7. On 29 June 2022 the agents submitted written representations. They confirmed that they did not require a hearing and that they agreed with the re-inspection report. In the written representations they firstly refer to their previous submissions which stated that a roofer had inspected the roof in January 2022. No active leaks were identified, and no work required. Damp meter readings were also taken and were within acceptable levels. They then explained that the Property Factor's roofer attended on 17 June 2022. No leaks were identified, and he recommended the installation of humidity meters. This has now been arranged. A damp survey was also instructed which identified several issues in relation to moisture ingress and water staining. The report concluded that further investigation and some remedial work is required. The agents also stated that damp meter readings were taken on 27 June 2022. High readings were noted in the 1st bedroom, low readings in the 2nd bedroom.
8. The agents concluded by requesting additional time to allow investigation of ongoing issues and for repairs to be carried out. They did not specify how much additional time is required.

Reasons for decision

9. The Tribunal considered the condition of the property at re-inspection and the written representations and documents submitted prior to and following the re-inspection.
10. The Tribunal notes that the Landlord arranged for investigations to be carried out following the RSEO being issued. The roofer instructed concluded that no further repairs were required. Moisture readings taken by the agents also suggested that there was no ongoing dampness or water ingress. Following the Tribunal' re-inspection, the agents arranged for a damp specialist to inspect the property. Further investigation and remedial work are recommended in the report The Landlord intends to carry out further investigations and remedial work, if required. In the meantime, the property is unoccupied.

11. The Tribunal is therefore satisfied that further time should be allowed for completion of the work and determines that the RSEO should be varied by extending the time for completion of the work until 30 October 2022.

Decision

12. The Tribunal determined that the RSEO should be varied by extending the time for completion of the work until 30 October 2022.

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.

J. Bonnar

Josephine Bonnar, Legal Member:

11 July 2022