

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision and Reasons: Housing (Scotland) Act 2006 section 25

Chamber Ref: KA19/109/11 & RP/13/0009

The Property

Property Description: The property at S.V.G.C.A Cottage, Culzean Castle Country Park, Maybole, Ayrshire, KA19 8JX erected on ALL and Whole that plot or area of ground extending to 11 poles and 17square yards or thereby, bounded: on the north-west by a pathway from Culzean Home Farm to Culzean Castle and to the south-west by the hall and four houses known as New Stables, forming part of the Culzean Policy Grounds, part of the lands and Barony of Culzean, in the Parish of Kirkoswald and County of Ayr, all as more particularly described in the Feu Charter by the National Trust for Scotland for Places of Historic Interest or Natural Beauty in favour of the Scottish Garden City Housing Society Limited dated Twenty ninth January and recorded in the general Register of Sasines for the County of Ayr on Sixteenth February, both months in the year Nineteen hundred and fifty three; Together with the dwellinghouse and whole other buildings and erections thereon, the heritable fittings and fixtures therein and thereon, free ish and entry therefrom and thereto, and the parts, privileges and pertinents effeiring thereto.

The Parties:-

Mr. Krisham Moodley, S.V.G.C.A Cottage, Culzean Castle Country Park, Maybole, Ayrshire, KA19 8JX, per Mr John Mulholland, Ayr Housing Aid Centre, 1st Floor, 7 York Street, Ayr KA8 8AN ("the tenant")

and

The Scottish Veterans' Garden City Association (Inc), having their registered office at New Haig House, Logie Green Road, Edinburgh, EH7 4HQ 9 ("the landlords")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') (formerly the Private Rented Housing Committee ('the PRHC')):

Mr David M Preston, Chairman; and Mr Robert Buchan, Surveyor Member.

Decision:

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') hereby certifies that the work required by the Repairing Standard Enforcement Order ("RSEO") relative to the Property dated 23 August 2011 as

varied by Notices of Variation dated 24 January, 27 March and 28 August, all 2013 has been completed. Accordingly, the said RSEO relative to the property has been discharged.

Background:

1. Following the Decision of the tribunal dated 26 May 2020 and after further sundry email exchanges between the parties and efforts to allow the tribunal to determine the application through use of video evidence, the tribunal administration recommenced property inspections in August 2021. Arrangements were made under the covid-19 regulations to carry out an inspection of the property on 3 November 2021.
2. The re-inspection was carried out by the tribunal as scheduled and as recorded in the Re-inspection Report dated 16 November 2021, which was copied to the parties for comment on that date. The Report is attached hereto as Schedule 1 and referred to for its terms.
3. On 22 November 2021 the tenant returned the Response Form indicating that he did not agree that the works had been completed. He asserted that there were some repairs which remained incomplete:
 - a. He claimed there was still a gap at the bottom corner of the back door and that light could be seen through it. He claimed that the back interior door was not fitted properly and had to be pushed at the bottom right corner to close it and that the rubber seal jams into the door near the hinge.
 - b. He said that there were still problems with surface staining and mould in the bathroom mainly around the window despite constant cleaning and that there was still a very strong smell of damp in the cupboards and drawers nearest the floor in the kitchen.
 - c. He claimed that the chimney pot and cowl had been damaged by a contractor in the summer of 2021 and had not been reinstated. He denied burning wet wood and unsuitable coal. He said that a part was awaited for the multi-fuel burner to allow the airflow to control burning time of coal/wood. He asserted that a glass door and a seal had not been fitted properly by contractors.
 - d. He claimed that repairs had been carried out to the wallpaper and paint in the hall using paper and paint which does not match the colour or pattern.
 - e. He complained that filters required to be changed in the M.R.H.V.
 - f. He said that: the gutters needed to be cleaned again; the front doorsteps were flaking and require repainted; the roof is showing mould, mildew and moss at the gable end; the rear vestibule linoleum is of a different colour to the damaged one and that the old floor covering has been left underneath.
4. On 1 December 2021 the tenant, through his agents requested that he be permitted to submit further photographic and video evidence.
5. On 6 December 2021 the landlords' solicitors sought an update on progress.
6. On 8 December 2021 the tenant's representative said that she understood that some of the issues were out with the RSEO but that the tenant wanted the tribunal

to be aware of all the issues with which he is unhappy and sought a response from the landlords to the issues raised.

Reasons for Decision

7. In coming to its decision, the tribunal took account of its observations during the re-inspection on 3 November 2021 as detailed in the re-inspection report dated 16 November 2021 as well as the correspondence outlined above insofar as relevant to the tribunal's consideration of the application before it as being the representations of the parties.
8. It had been made clear throughout the correspondence that, as outlined in the Decision on 26 May 2020 the only outstanding issues were the making good of the wallcovering in the hall and ensuring that the back door is wind and watertight.
9. The tribunal determined that the back door has been made wind and watertight. A draught excluding strip has been fixed around the exterior of the door frame. This was tight to the door when the door was closed, and no light could be seen, or draught felt at the time of inspection.
10. The repaired wallpaper has been painted and the landlord has attempted to match the colour as best as possible. Taking into account the age difference in the paint, it does not consider any difference to be a material issue in relation to whether the landlords have made good any damage caused by carrying out the works for the purpose of complying with their duties.
11. The tribunal found that the tenant's representations in relation to all other matters detailed in the email of 22 November 2021 are of no relevance to the tribunal's determination of the applications before it and accordingly dismisses any consideration of them as either being issues already found to have been attended to by the landlords or as new issues not previously raised by the tenant.
12. It is not a function of the tribunal to act as a conduit for communications between landlords and tenants in relation to any matters out-with issues raised in a validly submitted application under section 22 of the Housing (Scotland) Act 2006. The tribunal has no jurisdiction in relation to such matters.

A landlord or tenant 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:

15 December 2021

D Preston