

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)

Reference number: FTS/HPC/RT/22/2723

Re: Property at 36 Patrickbank Wynd, Elderslie, Johnstone, Renfrewshire, PA5 9US (“the Property”)

Title Number: REN118767

The Parties:

Renfrewshire Council, Communities and Housing Department, Renfrewshire House, Cotton Street, Paisley, PA1 1HD (“The applicant”)

Mr Christopher Francis Davies and Sharon Davies, residing together at 134 Sutton Avenue, Newcastle, Silverdale, ST5 6TB (“the Landlords”)

Interested Party:

Lisa Lochrie, residing at 36 Patrickbank Wynd, Elderslie, Johnstone, Renfrewshire, PA5 9US (“the Tenant”)

Tribunal Members:

Paul Doyle (Legal Member)

Lori Charles (Surveyor 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 Landlord has complied with the Repairing Standard Enforcement Order (“RSEO”) dated 26 January 2023 determined that the Landlord has failed to comply with the RSEO.

Background

(1) On 26 January 2023 the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) issued a decision requiring the Landlord to comply with the

repairing standard enforcement order (“RSEO”) made by the tribunal on 26 January 2023. On 11th August 2022 tribunal members re-inspected the property.

(2) The RSEO required the landlord to

(a) Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire electrical installation in the property and all electrical appliances and equipment supplied by the landlord and carry out all necessary remedial works to rectify any identified C1 and C2 categorised areas. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with a clear EICR and PAT (dated after 27 October 2022) prepared by a suitably qualified SELECT, NICEIC or NAPIT registered contractor.

(b) Instruct a suitably qualified Gas Safe registered engineer to repair or replace the gas central heating boiler. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with a satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.

(c) Ensure that interlinked smoke and heat detectors, and carbon monoxide detectors are installed within the property, ensuring that they are fully functional and located and powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.

(d) repair or replace the missing kitchen cupboard doors

(e) Replace the glass pane in the front door

(f) Repair or replace the bathroom window

(g) Repair or replace the toilet in the ground floor WC

All within 28 days of service of the RSEO

3. On 24 April 2023, tribunal members noted that none of the works required by the RSEO had been completed. The Ordinary member prepared a report containing photographs taken during the inspection.

4. The Ordinary Member’s report was circulated to parties. None of the parties made any further representations.

5. The tribunal can only come to the conclusion that the Landlord has chosen to ignore the terms of the repairing standard enforcement order dated 26 January 2023 including some essential health and safety requirements. For that reason, the tribunal decides to impose a rent relief order. As the landlord has chosen not to carry out most of the repairs required, and the quality of the tenant’s peaceful enjoyment of the property is adversely affected by the Landlord’s decision, the tribunal decided that

significant restriction of rental is merited. The tribunal therefore granted a Rent Relief Order for 30% of the monthly rental.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

P Doyle

Legal member of the tribunal

Dated: 2 June 2023