



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

### **STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24(1)**

**Chamber Ref: FTS/HPC/RP/22/3900**

**Property at 38 Princess Drive, Dyce, Aberdeen, AB21 7JY**

**Land Register Title Number ABN41867  
("the Property")**

#### **The Parties:-**

**Mr Liam Buchan, 38 Princess Drive, Dyce, Aberdeen, AB21 7JY ("the Tenant")**

**Mr Morenikeji Oni, care of 9 Keirhill Gardens, Westhill, Aberdeen AB32 6AZ  
("the Landlord")**

#### **Tribunal Members:**

Gillian Buchanan (Chair) and Mark Andrew (Ordinary Member)

### **Background**

1. Following an inspection of the Property and a Hearing on 14 February 2023, the Tribunal issued a Decision to adjourn the Hearing to allow the parties to continue an ongoing dialogue with a view to the outstanding items of repair identified in the Decision dated 14 February 2023 being resolved voluntarily.
2. The Tribunal stated that it expected the parties to have made significant progress in the resolution of the outstanding complaints in the intervening period.

### **Hearing**

3. The Tribunal held a Hearing by telephone conference on 31 May 2023. The Tenant attended the hearing. The Landlord was represented by Mr Seun Oguntodu, Vaniah Limited.
4. At the Hearing The Tenant made the following submissions:-
  - i. With regard to the cracked tiles in the bathroom, the plumber attended and confirmed there would be water damage to the wall behind the tiles and suggested to the Tenant what needed to be done. However, two new tiles have simply been stuck on top of the cracked ones adding an extra layer. The Tenant stated that he did not consider that solution to be an adequate one.

- ii. With regard to the kitchen, all of the issues previously identified remain outstanding. The rent arrears accrued are in the sum of £2000 and it was previously agreed that these would be cleared by instalments of £400 per month on top of the ongoing monthly rent of £700. To date, the Tenant had only managed to make one payment of £400. He is otherwise up to date with his ongoing rental payments.
- iii. In the hall the radiator has been repaired.
- iv. In the bathroom, no work has been done to the windowsill and the surrounds.
- v. In the bathroom the shower screen has been replaced.
- vi. On the stairs, the banister has been repaired.
- vii. In the cupboard in the hall the ceiling has been repaired.
- viii. Externally, the loose slabs have been replaced. The contractor highlighted that the patio is sinking and the same issue is likely to arise again.
- ix. The Tenant acknowledged that the Landlord would be affected by the outstanding rent arrears. However, the cost of living crisis had affected him and his partner too. He feels pinned in a corner. The kitchen repairs will not be undertaken until the arrears are cleared. It is almost a year now since these issues were raised and it is only since contacting the Tribunal that any repairs have been done

5. At the Hearing Mr Oguntodu made the following representations for the Landlord:-

- i. With regard to the cracked tiles, the Tenant has Mr Oguntodu's contact details and if he had any reservations about the standards of the repair he ought to have expressed those before now. He has not done so until the Hearing. The contractor would have provided options for the repair, the Landlord would have been consulted and the work thereafter carried out in accordance with those instructions. The Landlord would have had regard to the contractor's recommendation. The bigger repair would be to strip out all the tiles and install new tiles but the existing repair is sufficient. The repair was effected around two weeks ago. The contractor had issues with access.
- ii. With regard to the kitchen, the Landlord is not expected to fund the replacement of the kitchen if the Tenant is not up to date with his rent. There had been two missed payments of rent but the Tenant had recovered the position. The arrears remain outstanding. The Landlord has mortgage payments to meet and interest rates are high.

That there are independent issues in the kitchen that require to be addressed. However, the Landlord had an agreement with the Tenant that he would replace the kitchen which would deal with all of the issues identified provided the arrears were cleared within a particular period. The independent issues in the kitchen can be fixed and, depending upon the contractor's availability, these could be done by 30 June. It is not the case that the Landlord was ignoring the kitchen works.

- iii. With regard to the bathroom window, the contractor was given a list of repairs to carry out and he expected that had been done. He accepts the repair to the window is outstanding.

## Summary of the issues

6. The outstanding issues to be determined are:-

### *In the bathroom*

- a. Whether the recent repair of the cracked tiles by two new tiles being placed on top is of a reasonable standard such that the tiles are in a reasonable state of repair.
- b. Whether the windowsill and surrounds are in a reasonable state of repair.

### *In the kitchen*

- c. Whether the worktops are rotten around the kitchen sink.
- d. Whether the sink cupboard is in a reasonable state of repair and in proper working order.
- e. Whether the kitchen unit doors and drawers are in a reasonable state of repair and in proper working order.

### *Flooring*

- f. Whether the flooring in the kitchen and dining area is in a reasonable state of repair.
- g. Whether the Property meets the Repairing Standard.

## Findings of fact

7. The Tribunal finds the following facts to be established:-

- (a) The Landlord is the heritable proprietor of the Property.
- (b) That the Property is leased by the Landlord to the Tenant in terms of Private Residential Tenancy Agreement that started on 1 July 2022.
- (c) That it is the Landlord's responsibility to ensure that the Property meets the Repairing Standard under the Housing (Scotland) Act 2006.
- (d) In the bathroom –
  - i. The repair to the cracked tiles is adequate albeit the repair may fail in the not too distant future resulting in further repairs being required.
  - ii. The windowsill and the vertical sections around the window (timber ingoes or jambs) are rotten and therefore not in a reasonable state of repair.
- (e) In the kitchen –
  - i. The upstand behind the kitchen sink is not in a reasonable state of repair and requires repaired or replaced.
  - ii. The cupboard under the sink has previously suffered dampness and the shelf is not present as ought to be the case. The base of the cupboard has suffered dampness causing the front edge to be thrown off. The cupboard under the sink is not in a reasonable state of repair and in proper working order and does not meet the Repairing

Standard.

- iii. Other than as described above the kitchen cupboard doors and drawers are in a reasonable state of repair and in proper working order.
- iv. The vinyl flooring is ripped and is not therefore in a reasonable state of repair.
- v. The boards of the laminate flooring are uneven.

### **Reasons for the Decision**

- 8. In considering this application the tribunal has had regard to the age and character of the Property and the locality in which the Property is located all in accordance with Section 13(3) of the Housing (Scotland) Act 2006.
- 9. When the Tribunal convened on 14 February 2023 various items of repair complained about by the Tenant had been resolved and others were in the course of being resolved. The Hearing on 14 February 2023 was therefore adjourned to allow the parties to continue their dialogue with a view to the outstanding repairs being resolved voluntarily.
- 10. When the Tribunal convened at the Hearing on 31 May further items of repair had been resolved but others remained outstanding.
- 11. The parties appear to have previously reached an agreement that if the Tenant settled rent arrears accrued within an agreed period of time the Landlord would replace the kitchen in its entirety. This would resolved items of repair identified within the kitchen.
- 12. The Tenant has been unable to pay the rent arrears and the kitchen has therefore not been replaced. Various items of repair within the kitchen remain outstanding and, as matters stand, the kitchen does not meet the Repairing Standard as ought to be the case.
- 13. In particular, the upstand behind the kitchen sink is porous and requires repaired or replaced. The cupboard under the sink has previously suffered dampness and the shelf is not present as ought to be the case. The base of the cupboard has suffered dampness causing the front edge to be thrown off. The cupboard under the sink is not in a reasonable state of repair and in proper working order and does not meet the Repairing Standard. The entire unit around the sink requires replaced. The vinyl flooring is ripped and is not therefore in a reasonable state of repair. The boards of the laminate flooring are uneven.
- 14. In the bathroom new tiles have been secured onto cracked tiles. Whilst this approach will provide an adequate short term solution the arrangement is likely to fail in due course and further repairs will be required.
- 15. Around the window in the bathroom window the sill is rotten as are the vertical sections all of which require replaced. The wooden sill and wooden ingoes or jambs are not in a reasonable state of repair and do not meet the Repairing Standard.

### **Decision**

- 16. The tribunal accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act.

17. The tribunal proceeded to make a Repairing Standard Enforcement Order (RSEO) as required by section 24(1).
18. The decision of the tribunal was unanimous.

### **Right of Appeal**

- 19. 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 tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

### **Effect of section 63**

- 20. 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.**

# G Buchanan

Signed

Date : 31 May 2023

Legal Member and Chairperson