



Statement of Decision under section 25(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/1507

Re: Property at Frasers House, Lighthouse Cottages, Rattray, Peterhead, AB42 3HA (“the Property”)

Parties:

**Ms Eleanor Whittow, Auchenheath House, Auchenheath, Lanark, ML11 9UX;
 (“the Landlord”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Angus Anderson (Ordinary Member)

Decision

The Tribunal determined to vary the Repairing Standard Enforcement Order dated 23 June 2022 to extend the period for carrying out the works by three months from the date of this decision.

Background

- 1 By application to the Tribunal, Mr John Dellow and Ms Kirsty Griffiths (“the former Tenants”) applied to the Tribunal for a determination as to whether Mr Robert Keeble and Ms Valerie Keeble (“the former Landlords”) had failed to comply with the duties imposed by Section 14(1)(b) of the Act. On 23 June 2022 the Tribunal made a Repairing Standard Enforcement Order requiring the Landlord to carry out the following works:-
 - (a) Instruct a SELECT, NICEIC or NAPIT accredited electrician to inspect the property, with particular regard to the items listed in the accompanying decision and thereafter to provide a current Electrical Installation Condition Report (EICR) in respect of the property, containing no category C1 or C2 items of disrepair;
 - (b) Repair or replace the back door pertaining to the kitchen to ensure it is wind, watertight and in proper working order;

- (c) Carry out such works to the ducting pertaining to the ventilation fan from the back bedroom to the right hand side of the house to ensure it expels humid air externally;
- (d) Install suitable covering to the external drainage installation servicing the property to ensure these are not exposed.

The Tribunal gave the Landlord a period of three months to complete the works.

- 2 On 20 September 2022 the Landlord emailed the Tribunal to provide a copy invoice for the installation of venting plates for the bathroom extractor. She advised that she was trying to progress the installation of soak-away covers and had asked a contractor to action this. The property was now empty.

The Re-inspection

- 3 The re-inspection took place on 4 October 2022. The weather was overcast and breezy with showery weather over the preceding few days. The Landlord was not in attendance. Two trademen were in the property carrying out decoration works on behalf of the Landlord. The property appeared to be unoccupied.
- 4 The Tribunal inspected the areas where works were required by the RSEO. In terms of the electrical installations the Tribunal noted loose electrical cabling within the utility area and exposed electrical conductors in the garage.
- 5 The Tribunal noted that the back door pertaining to the kitchen remained unchanged from the initial inspection. The door was swollen with open joints and was binding in the frame. The lower panel was split.
- 6 Within the roof space the Tribunal noted two vents had been installed through the roof covering. However the three fan ducts were not connected to the vents and would continue to discharge moist air to the roof space.
- 7 Externally the Tribunal observed that the external drainage installation covers were unchanged and the old timber pallets remained in place covering the openings.
- 8 Following the re-inspection the Landlord emailed the Tribunal on 6 October 2022 to provide copy email correspondence with the contractor to evidence the efforts she was making to progress the work. On 7 October 2022 the Landlord emailed again to advise that she had engaged an electrician who would be coming out to the property the next week and she would provide an update after his visit. She did not yet have a confirmed date for the installation of the soak-away cover. She had arranged for the backdoor to be adjusted and provided a photograph to evidence the work. The split panel had been sealed and draft excluders fitted.

- 9 On 21 October 2022 the Landlord emailed the Tribunal to confirm that the electrician had attended the property and had attended to the outstanding issues highlighted. The extraction ducts had also been fitted to the vent in the roof. With regard to the EICR, whilst this was dated 25 May 2022, the electrician had in fact returned to the property following the Tribunal's initial inspection and had updated the report. The whole system was not however re-tested, hence why the EICR remained of the same date. A new more robust storm guard had been fitted to the back door. The covers for the manholes had been ordered. On 24 October 2022 the Landlord emailed again with photographs of the extractor ducts and new stormguard.

Reasons for Decision

- 10 The Tribunal considered it had sufficient information upon which to reach a decision on the application and concluded that there was no requirement to hold a hearing in order to seek further clarification on any matters. Whilst the Landlord had requested a hearing, she had also provided lengthy written representations and the Tribunal considered it was aware of her position regarding matters as a result.
- 11 The Tribunal observed at the re-inspection that the covers to the external drainage installations were still outstanding. This had been confirmed by the Landlord in her written representations. The Tribunal did however accept that the Landlord was making efforts to ensure this was actioned and that supply chain issues had delayed matters.
- 12 With regard to the electrical installations, the Tribunal had remaining concerns regarding the loose electrical cables and exposed electrical conductors observed during the re-inspection. The Tribunal noted however from the Landlord's recent correspondence her position that these issues have now been addressed.
- 13 With regard to the back door, the Tribunal noted that the Landlord had arranged for this to be repaired following the re-inspection and had provided photographic evidence of this.
- 14 Finally with regard to the ducts pertaining to the ventilation fans the Tribunal noted during the re-inspection that these remained unconnected to the vents and would therefore continue to discharge moisture to the roof space. However the Landlord had since provided confirmation that the ducts had been installed and provided photographic evidence of this.
- 15 On the basis that the only issue outstanding appeared to be the covers to the drainhole installations, the Tribunal was satisfied that the Landlord was making reasonable efforts to progress the works required by the RSEO. Accordingly the Tribunal considered it would be appropriate to vary the RSEO to allow the Landlord a further period of three months to complete the works.

- 16 The Tribunal is conscious of the Landlord's concerns regarding the property lying empty and her desire to ensure it is relet as soon as possible. Accordingly whilst the Tribunal has given a lengthy period for completion of the works, having regard to supply chain issues, the Tribunal would request that the Landlord get in touch once the covers had been installed so that a further reinspection can be arranged as soon as possible if required.
- 17 The decision of the Tribunal was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or 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 determined.

R O'Hare

Legal Member/Chair

Date

14 November 2022

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Variation of Repairing Standard Order under section 25(1) of the Housing (Scotland) Act 2006

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The First-tier Tribunal for Scotland (Housing and Property Chamber (“the Tribunal”) having determined on 14 November 2022 that the Repairing Standard Enforcement Order relative to the house made on 23 June 2022 should be varied, the said Repairing Standard Enforcement Order is hereby varied as follows:-

- (i) To extend the period of time for carrying out the works by a period of three months.

Section 25(3) applies in this case.

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.

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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.

R O'Hare

Signed

Ruth O'Hare

Legal Member

Date: 14 November 2022