



**Statement of Decision of the Housing and Property Chamber
of the First-tier Tribunal for Scotland under Section 26 (1) of
the Housing (Scotland) Act 2006**

Property: 97 Mid Street, Fraserburgh, Aberdeenshire AB43 9JP (“the Property”/ “the house”)

Chamber Reference: FTS/HPC/RT/20/0051

Parties:

Aberdeenshire Council, Gordon House, Blackhall Road, Inverurie AB51 3WA (“Third Party Applicant”)

Mr Artur Kilmek, sometime 97 Mid Street, Fraserburgh, Aberdeenshire AB41 9JP (“the Tenant”)

Mrs Gopa Soni, 20 Smiddyhill Road, Fraserburgh, Aberdeenshire AB43 9WL (“the Landlord”)

Tribunal Members - George Clark (Legal Member/Chairperson) and Angus Anderson (Ordinary Member/Surveyor)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’), having reinspected the Property, decided that the Landlord has failed to comply with the Repairing Standard Enforcement Order made on 17 March 2020 and that intimation of that failure should be made to the local authority and to Police Scotland

Background

1. By application, received by the Tribunal on 10 January 2020, the Third Party Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. Following an inspection and Hearing on 17 March 2020, the Tribunal made a Repairing Standard Enforcement Order (“RSEO”) in respect of the Property. The RSEO required the Landlord to:

- Carry out such repairs as are necessary to ensure the front entrance door is wind and watertight and in proper working order, including replacing the external flap on the letter plate and repairing/replacing the door handle to ensure it is in proper working order.
- Replace all rotted skirtings in the bathroom and inner hallway and the decayed timber linings around the edges of the bath, to ensure a watertight seal between the bath and the bathroom walls.
- Replace the flooring in the kitchen.
- Replace the missing door handles on the doors between the sitting room and the kitchen and the sitting room and the hall, so that the doors may be closed and opened properly.
- Investigate the cause of the dampness in the walls of the living room and bedroom 2 and carry out such specialist and remedial work as is necessary to eradicate the problem and, thereafter, redecorate the affected areas.
- Re-attach securely to the wall, the electric panel radiators in the bathroom and bedroom 1 and make good the adjacent wall finishes.
- Replace the smoke detectors within the Property and take such steps as are necessary to ensure the provision of smoke and heat detectors complies with all necessary statutory provisions and Scottish Government Guidance Notes.
- Take such steps as are necessary to ensure the outhouse is safe to use.
- Clear all gutters of vegetation to ensure they are running properly.
- Provide the Tribunal with an Electrical Installation Compliance Certificate, dated after the date of completion of the above works and showing no C1 or C2 categorised items of disrepair.

The Tribunal ordered that the works required by the RSEO must be carried out within the period of three months from the date of service of the Order.

The Reinspection

3. The Tribunal reinspected the Property on the morning of 11 August 2021. The Third Party Applicant was represented by Mrs Emma Bain. The Landlord was present at the reinspection. The Tenant, having vacated the Property, was no longer a Party to the proceedings. The Tribunal Members inspected the Property with regard to each of the items of work required by the RSEO. A Reinspection Report and Schedule of Photographs, taken at the reinspection, is attached to and forms part of this Statement of Decision.
4. The Reinspection Report and photographs were issued to the Parties for their comments. The Respondent made no response. The Third Party Applicant responded indicating that a further Hearing was not requested and stating that the replacement floor covering in the kitchen is uneven and is still a trip hazard.

Reasons for Decision

5. The Tribunal determined that the front door handle and letter plate are now in a reasonable state of repair.
6. Whilst the skirtings have been made good, the decayed timber linings and gaps around the bath remain and are not in a reasonable state of repair.
7. The kitchen flooring has been replaced and, whilst there are a number of “wrinkles” in it, it no longer presents a tripping hazard.
8. The two internal door handles which were missing at the time of the original inspection have been reinstated.
9. New linings have been fitted to the sitting room and bedroom 2 and no dampness was found at the re-inspection.
10. The Tribunal noted that the radiators in the bathroom and bedroom 1 have been re-attached to the wall.
11. There are smoke detectors in the hallway, living room and one of the bedrooms and a heat detector in the kitchen, but, whilst all when tested were working, they are clearly not interlinked and are therefore unsatisfactory.
12. The outbuilding is still not in a reasonable state of repair. The washing machine is still in situ and, although a partial “false ceiling” has been put in, it is below the light fitting, which still remains exposed to water penetration from the roof above, so fails to comply with the repairing standard requirements set out in Section 13(1)(b) of the Act.
13. The issue with vegetation in the gutters appears to have been resolved.
14. Whilst the landlord has provided an Electrical Installation Condition Certificate, the RSEO required the production of an Electrical Installation Condition Report. Such a report includes advice about the overall condition of the installation and specific advice on defects found during the inspection and testing of the installation. During the reinspection, there were aspects of the installation that were clearly dangerous, such as the damaged exterior light and the wiring to the outbuilding. This is a failure to comply with the repairing standard requirements set out in Section 13(1)(c) of the Act.

Decision

15. The Tribunal, having considered all the matters it had noted at the reinspection, determined that the Landlord has failed to comply with the Repairing Standard Enforcement Order in respect of the Property.

16. The decision of the Tribunal was unanimous.

Right of Appeal

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 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 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.

Clark

Signed
Legal Member/Chairperson
Date: 17 September 2021

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