

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 26(1)

Chamber Ref: PRHP/RP/16/0235

Title Number: WLN34525

Re: The residential dwellinghouse at

**93 Barclay Way
Knightsridge
Livingston
EH54 8HA**

("the Property")

The Parties:-

Miss Abigail Burke

Formerly residing at the Property

("the Tenant")

**Ms Esther Dangata and Ms Yohanna Dangata
C/o Express Letting Agency
Peter House
Oxford Street
Manchester
M1 5AN**

("the Landlords")

The Tribunal comprised:

**Mr Ron Handley – Legal Member
Mr Andrew Taylor - Ordinary Member**

The Background

1. On 25 September 2016 the Tribunal (formerly the PRHP Committee) issued a Repairing Standard Enforcement ("the RSEO") which related to the Property and required the Landlords to:

- engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and then produce a written report on the gas fired heating and hot water supply installation including the boiler, all radiators, valves, programmers, thermostats and shower valves;
 - ensure that the written report particularly focuses on pressure losses within the system, non-working radiators and all earthing and bonding;
 - implement any recommendations contained in the written report and in so doing ensure that the entire system is safe and in proper working order;
 - provide a valid CP12 Gas Safety Certificate on completion of the previously referred to works;
 - repair or replace the double patio doors to the Living Room ensuring that both leaves open, are in proper working order, safe and secure, wind and watertight and that all double glazing units (within the patio doors) are in good condition.
 - repair, rebed or renew steps to front and rear entrances so that they are stable, safe and in a reasonable state of repair;
 - ease and adjust the internal doors so that they are capable of opening/closing and in proper working order;
 - repair or replace the front entrance door and seals so that the door is capable of opening and closing, is safe, secure and is wind and watertight.
 - make safe or remove the metal corner trim in the hall.
 - carry out all making good and decoration associated with the completion of the foregoing works.
2. The Tribunal ordered that the works specified in the RSEO be carried out and completed within the period of 6 weeks from the date of service of the RSEO.
 3. On 3 October 2016 the Tribunal were advised that the Tenant had vacated the Property on 28 September 2016.
 4. On 6 December 2016 the Ordinary Member of the Tribunal carried out a re-inspection of the Property to determine if the required works had been carried out. The Ordinary Member was unable to gain access to inspect the works internally. However it was evident that no works had been carried out externally in respect of works to the front and rear entrance steps and to the front entrance door. The Landlords had not produced any written reports, certificates or submissions.

5. The re-inspection report (a copy of which is attached hereto) was sent to the Landlords who were advised that any comments regarding the report should be received by the Tribunal on or before 21 December 2016. No response was received from the Landlords.
6. The Tribunal were satisfied from the re-inspection that no external works had been carried out to the Property and no reasonable explanation had been provided by the Landlords for this failure and for the failure to produce written reports/certificates.
7. In accordance with section 26(2) of the Housing (Scotland) Act 2006 ("the Act") where the Tribunal decides that the Landlords have failed to comply with an RSEO, the Tribunal must:
 - (a) serve notice of the failure on the Local Authority and
 - (b) decide whether to make a Rent Relief Order ("RRO").
8. Given that the Landlords had failed, without reasonable excuse to comply with the terms of the RSEO the Tribunal decided to serve notice of the failure on the appropriate Local Authority.
9. In regard to a RRO, given that the Tenant had vacated the Property and it appeared that there was no current tenancy, the Tribunal concluded that it was not appropriate to make an RRO. The Tribunal noted that the re-letting of a house/property whilst an RSEO is in place is a criminal offence. Given that the Landlords had offered no explanation for their failure to carry out the works relative to the RSEO the Tribunal was of the view that section 28(1) of the Act had been breached and the Tribunal resolved to report the failure to the Police for consideration for prosecution.

Decision

10. The Tribunal determined that the Landlord's had failed to comply with the RSEO. The Tribunal determined to serve a Notice of Failure to comply with the RSEO on the relevant Local Authority and to report the matter to the Police for consideration for prosecution. The Tribunal determined not to make an RRO.
11. The decision of the Tribunal was unanimous.

Right of Appeal

12. A Landlord(s) or Tenant(s) aggrieved by the decision of the Tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only and within 30 days of the date the decision was sent to him/her.

Effect of section 63 of the Act

13. If a party seeks to appeal and permission is refused, the decision will be treated as having effect from the day on which the refusal is made unless the party then seeks permission from the Upper Tribunal to appeal the decision. In that event, if permission is refused, the decision is treated as having effect from the day on which the Upper Tier refuses the permission.

Signed
Legal Member

R Handley

Date 31 March 2017



Re-Inspection Report



Property – 93 Barclay Way, Knightsridge, Livingston, EH54 8HA

Reference- PRHP/RP/16/0235

Surveyor – Andrew Taylor, MRICS

Previous Inspections – Full Committee – 10.00am, 19th September 2016

Re-inspection – 11.30am, 6th December 2016

Weather – Dry, overcast

In Attendance – No representation and no access available

Purpose of Re-inspection - To establish if the work required under the Repairs Standard Enforcement Order had been completed.

RSEO – In terms of the RSEO issued on 25th September 2016 the Landlord was required to carry out such work as was necessary to ensure that the house meets the repairing standard and in particular the following specific areas: -

- Engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and then produce a written report on the gas fired heating and hot water supply

installation including boiler, all radiators, valves, programmers, thermostats and shower valves.

- Ensure the written report particularly focuses on pressure losses within the system, non-working radiators and all earthing and bonding.
- Implement the recommendations contained in the written report and in so doing ensure that the entire system is safe and in proper working order.
- Provide a valid CP12 Gas Safety Certificate on completion of the previously referred to works
- Repair or replace the double patio doors to the Living Room ensuring that both leaves open, it is fit for purpose, safe and secure, wind and watertight and that all double glazing units are in good condition.
- Repair, rebed or renew steps to front and rear entrances so that they are stable, safe and in a reasonable state of repair
- Ease and adjust internal doors so that they are capable of opening/closing and in proper working order
- Repair or replace front entrance door and seals so that the door is capable of opening and closing, is safe, secure and wind and watertight.
- Make safe or remove the metal corner trim in the hall.
- Carry out all making good and decoration associated with the completion of the foregoing works.

Works In RSEO Carried Out

1. No access was gained to inspect works internally. It was evident that no works have been carried out externally in respect of works to front and rear entrance steps nor to the front entrance door. No written reports or Certificates have been received.

Works In RSEO Outstanding at Inspection

- Engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and then produce a written report on the gas fired heating and hot water supply installation including boiler, all radiators, valves, programmers, thermostats and shower valves.
- Ensure the written report particularly focuses on pressure losses within the system, non-working radiators and all earthing and bonding.
- Implement the recommendations contained in the written report and in so doing ensure that the entire system is safe and in proper working order.
- Provide a valid CP12 Gas Safety Certificate on completion of the previously referred to works
- Repair or replace the double patio doors to the Living Room ensuring that both leaves open, it is fit for purpose, safe and secure, wind and watertight and that all double glazing units are in good condition.
- Repair, rebed or renew steps to front and rear entrances so that they are stable, safe and in a reasonable state of repair

- Ease and adjust internal doors so that they are capable of opening/closing and in proper working order
- Repair or replace front entrance door and seals so that the door is capable of opening and closing, is safe, secure and wind and watertight.
- Make safe or remove the metal corner trim in the hall.
- Carry out all making good and decoration associated with the completion of the foregoing works

Photographs



Front steps - December 2016



Front door- December 2016



Rear patio door and steps = December 2016



Rear steps – December 2016

Comments

This Report will be distributed to the landlord for comments and will be referred to the Tribunal of the Housing and Property Chamber, First-tier Tribunal For Scotland for their consideration and further action.

Andrew Taylor MRICS

Surveyor Member, Housing and Property Chamber, First-tier Tribunal For Scotland

7th December 2016