

Housing and Property Chamber

First-tier Tribunal for Scotland



Ref PRHP/RP/15/0299

Statement of a Decision of the First Tier Tribunal Housing and Property Chamber regarding the Landlords' compliance with a Repairing Standard Enforcement Order in terms of Section 26 (1) of the Housing (Scotland) Act 2006

Re: 35 Southfield Farm Grove, Edinburgh EH15 1SR ("the Property")

Title Number: MID42780

The Parties:-

MR CHRISTOPHER UMWENI, residing at 35 Southfield Farm Grove, Edinburgh EH15 1SR ("the Tenant")

ELIZABETH RAYMONDE MANSHOURI and MEHDI MANSHOURI, Spouses, residing at 9 Duddingston Crescent, Edinburgh EH15 3AS ("the Landlords")

Tribunal members:-

Richard Mill (Legal Member) and Susan Napier (Ordinary Member)

Decision

The Tribunal, unanimously, having made enquiries for the purposes of determining whether or not the Landlords have complied with the Repairing Standard Enforcement Order made by the Tribunal dated 28 April 2016, determines that the Landlords have failed to comply with the Repairing Standard Enforcement Order.

Background

1. Following an inspection and hearing on 18 April 2016, the Tribunal determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and contemporaneously the Tribunal issued a Repairing Standard Enforcement Order in the following terms requiring the Landlords:-

- “1. Produce an up-to-date Gas Safety Certificate in respect of all gas appliances within the Property.
2. Produce a report on the current condition and operation of the boiler and heating system within the Property from a registered gas engineer. The report should address the ability of the boiler to heat hot water alone in the absence of the heating system being operative and address the efficiency of the radiators. Any work to improve the effectiveness of the radiators, including bleeding air from them should be undertaken.
3. Produce an Electrical Installation Condition Report (EICR) in respect of the whole Property, to include a Report on all of the electrical sockets and lighting.
4. Replace the fixed double glazed unit of the front bedroom of the Property.
5. To instruct a qualified plumber to:
 - i. investigate the leak from the bathroom to the kitchen and to take all necessary steps to repair or replace necessary components.
 - ii. repair or replace the cold taps in the bathroom, both at the basin and bath.
 - iii. replace the seal around the bath to the tiling.
6. Re-plaster and re-decorate the kitchen ceiling currently damaged as a consequence of the leak from the bathroom upstairs.

The Private Rented Housing Committee requires that the works specified in this Order must be carried out and completed within 6 weeks from the date of service of this Notice.”

2. The Ordinary Member of the Tribunal subsequently carried out a re-inspection of the Property on 25 July 2016. It was identified that the Landlords had carried out none of the works required in terms of the Repairing Standard Enforcement Order.
3. Following representations being received, the Tribunal decided to carry out a further re-inspection of the Property and to fix a Hearing to determine the Landlords’ compliance with the Repairing Standard Enforcement Order.
4. An inspection and hearing was convened to take place on 4 November 2016. Intimation had been given to the Landlords. The Tribunal members were not afforded access to the Property on that day and accordingly could not make any

determination as to whether or not the Landlords had complied or not. In the circumstances a fresh inspection and hearing were thereafter arranged.

Inspection

5. The Tribunal members attended the Property at 10.00 am on 3 March 2017. They were directed around by Mr Manshouri. The Property is no longer occupied, the Tenant having left the Property following Decree for Eviction having been granted at Edinburgh Sheriff Court on 8 April 2016. The Tribunal's inspection revealed that the properties in the course had been renovated and none of the requirements in terms of the previously issued Repairing Standard Enforcement Order have yet been completed. This was accepted by Mr Manshouri.

Hearing

6. A Hearing was convened to take place at Room D8, George House, George Street, Edinburgh later the same morning on 3 March 2017. Mr Manshouri joined the Tribunal. He again accepted that none of the works specified in the Repairing Standard Enforcement Order had yet been completed. He advised that he expected the works to be completed within the next month.

Decision

7. The Tribunal was satisfied that they had sufficient information available to come to a determination as to whether or not the Landlords have complied with the Repairing Standard Enforcement Order previously issued. The Tribunal had regard to their findings at the time of their inspection, evidenced by the attached Schedule of Photographs and the acceptance by Mr Manshouri that the relevant works required have not been completed.
8. Mr Manshouri advised that he expects the works to be fully completed within the next month. He did however make reference to financial difficulties and potential problems in completing the works. The Tribunal has regard to the lengthy history of matters here and has had regard to the fact that the Repairing Standard Enforcement Order requiring completion of the specified works within a period of 6 week was issued on 28 April 2016. The Tribunal has taken into account the ill health of Mr Manshouri and commitments by the Landlords to travel abroad for periods of time. Notwithstanding this, the Tribunal was satisfied that no further opportunity should be given to the Landlords to comply prior to concluding that they have failed to comply with the Repairing Standard Enforcement Order previously issued.

Right of Appeal

9. 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.

Effect of section 63 of the Act

10. 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.

M J Murray witness

Margaret Johnstone Murray
69-71 Dalry Road
Edinburgh
EH11 2AA

Legal Secretary

R Mill

Legal member

Date: 3 March 2017

APPENDIX 1

HOUSING & PROPERTY CHAMBER FIRST-TIER TRIBUNAL FOR SCOTLAND

PRHP/RP/1/0299 - 35 SOUTHFIELD FARM GROVE, EDINBURGH EH15 1SR

PHOTOGRAPHS OF REINSPECTION 3 MARCH 2017 AT 1000

Gas boiler and electrical installation



Kitchen ceiling and light fitting



Living Room



Front Bedroom window



Bathroom



Hall



**Susan Napier BSocSc FRICS
Ordinary Member**