

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”)**

**DECISION: Housing (Scotland) Act 2006 (“the 2006 Act”), Section 25**

**Chamber Ref: FTS/HPC/RP/18/0510**

**60 Leng Street, Dundee, DD3 6QY, which subjects form part of the larger subjects, 40¼ Poles of Ground, bounded on the north by Byron Street, Dundee and on the east by Leng Street, at Coldside, near Dundee, in the Barony of Hilltown of Dundee and Parish of Dundee, as more particularly described in the Feu Disposition by Governor and Company of Bank of Scotland to Jainti Dass Saggarr and recorded in the General Register of Sasines on 17 October 1928 (“The House”)**

**The Parties:-**

**The successor in title to Dr Karam Dev Saggarr, 27 Albany Terrace, Dundee c/o Mr Seng-Say Li, Balgay Property and Investment Services, 8 Westport, Dundee, DD1 5EP (“the Landlord”)**

**Neena Saggarr, Westridge House, Badgers’ Hill, Evesham, Worcestershire, WR11 4SD (“the Landlord’s representative”)**

**Dallas McMillan, Solicitors, 70 West Regent Street, Glasgow, G2 2QZ (“the Landlord’s representative’s solicitor”)**

**Tribunal members**

**Susanne L M Tanner Q.C. (Legal Member)  
David Godfrey (Ordinary Member)**

## **DECISION**

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), having taken account of the submissions made by the solicitor acting on behalf of the Landlord's Representative, was satisfied that the work required by the Repairing Standard Enforcement Order dated 15 August 2018, as varied on 1 November 2018, 26 April 2019 and 17 December 2019, is no longer necessary.
2. The tribunal revoked the RSEO in terms of Section 25(1)(b) of the Housing Scotland Act 2006 (hereinafter "the 2006 Act").
3. The decision of the tribunal was unanimous.

## **STATEMENT OF REASONS**

### **4. Findings-in-fact**

- 4.1. On 13 December 2019, the House was sold.
- 4.2. Planning permission has been granted for the demolition of the House and the erection of new dwellings on the site.

### **5. Reasons**

- 5.1. On 15 August 2018, the tribunal issued a Decision in terms of Section 24(1) of the 2006 Act and made a Repairing Standard Enforcement Order ("RSEO"), requiring the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard in Section 13 of the 2006 Act and that any damage caused by the carrying out of any work in terms of the RSEO is made good. In particular, the tribunal required the Landlord:
  1. To replace the roof covering on the front and rear roof pitches and the supporting structure where necessary, to make the roof wind and watertight and the House reasonably fit for human habitation;
  2. To replace all four external doors and frames to make them wind and watertight and in a reasonable state of repair and proper working order;
  3. To remove or repair the external canopy above the front door to make it watertight and in a reasonable state of repair and proper working order;

4. To repair or replace the garage so that it is wind and watertight and in a reasonable state of repair and proper working order;
- 5.2. The tribunal ordered that the works specified in the RSEO must be carried out and completed within 90 days from the date of service of the RSEO.
- 5.3. The RSEO was served on 16 August 2018.
- 5.4. On 1 November 2018, the RSEO was varied on the Application of the solicitor for the Landlord's Representative, to allow an additional period of 180 days to complete the specified works. Reference is made to the tribunal's decision of 1 November 2018 and variation of the same date.
- 5.5. On 22 February 2019, the Landlord's Representative's Solicitors, submitted further documentation in relation to the sale of the House, including concluded missives for sale of the House. The solicitors advised that the planning application would be lodged shortly and the intention was to demolish the House and a new development constructed thereon. The solicitors indicated that they understood that the proposal had been accepted in principle by the planning authority. The solicitors asked what further information would be required in respect of variation or discharge of the RSEO.
- 5.6. The tribunal considered the solicitor's submissions and documents and noted from the terms of the missives of sale that Clause 2.6 of the offer contains a suspensive condition relative to planning permission and also that the date of entry is based upon the date of purification of the suspensive condition. The tribunal responded to the Landlord's Representative's solicitors stating that the request for discharge of the RSEO therefore appeared to be premature, unless the factual situation has changed since they submitted the missives to the tribunal. The tribunal requested that the solicitors submit proof that planning permission has been granted, the suspensive condition has been purified and to confirm the date of entry by the purchasers. The tribunal stated that it would consider any further information submitted and confirm whether the RSEO could be discharged.
- 5.7. On 24 April 2019, Dallas McMillan sent an email to the tribunal to advise that an application for planning permission was about to be lodged. The planning department had asked for an engineer's report to accompany the planning application and the engineer was in turn waiting to hear from Scottish Water in relation to drainage requirements. In light of that, the solicitors requested a variation of the RSEO to allow a further period of time to carry out the works ordered by the RSEO, requesting 6 months as a "long stop date", given that the Landlord and the purchasers are trying to progress matters as quickly as possible.

- 5.8. In light of the information and documentation submitted by and on behalf of the Landlord's Representative, the tribunal decided that it was prepared to accede to the Landlord's Representative's request and vary the RSEO to allow the time period for works to be extended by an additional 180 days, to give a total time period for compliance of 450 days from the date of service of the RSEO.
- 5.9. On 1 November 2019, the Landlord's Representative's submitted a copy of the concluded missives for the sale of the House; advised that the purchaser had obtained planning permission; advised that the purchaser had applied for a loan and was awaiting a decision; advised that missives had been concluded on 14 October 2019; advised that the proposed settlement date in October 2019 had been missed due to the purchaser's delay with finance; estimated that the sale could complete by the end of January 2020; enclosed a copy of the planning permission granted to the purchaser for demolition of the existing dwelling and the erection of four new dwellings on the site; and requested a further variation of the RSEO to enable the sale to be completed.
- 5.10. On 17 December 2019, the tribunal varied the RSEO and the period allowed for completion of the works required by the order was further extended to 31 January 2020.
- 5.11. On 16 December 2019, the Landlord's representative's solicitor sent an email to the tribunal's administration to advise that the House has been sold as concluded for in the missives, with a date of entry of 13 December 2019.
- 5.12. There are no other parties to the Application.
- 5.13. In the circumstances the tribunal considers that the work required by the order is no longer necessary.
- 5.14. The tribunal therefore revoked the RSEO in terms of Section 25(1)(b) of the 2006 Act.

## **6. Right of Appeal**

- 6.1. A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**
- 6.2. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the

appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed ..... Susanne L M Tanner,  
Queen's Counsel Legal Member and Chair of the tribunal

Date 17 December 2019