

Housing and Property Chamber

First-tier Tribunal for Scotland



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

DECISION WITH STATEMENT OF REASONS FOR VARIATION OF RSEO: Housing (Scotland) Act 2006, Section 25

Chamber Ref: FTS/HPC/RP/19/3972

7/7 Tower Place, Edinburgh, EH6 7BZ (Title number MID92258) ("The Property")

The Parties:-

Mr Andrew Michael Beatt, 46 Abbotsford Road, Galashiels
("the Respondent")

Tribunal members

Ms. Susanne L. M. Tanner Q.C., Legal Member and Chair

Mr. Andrew Murray, Ordinary Member

DECISION

1. The tribunal, having taken account of the Respondent's written and oral submissions, varies the Repairing Standard Enforcement Order (RSEO) dated 6 March 2020, in terms of section 25 of the 2006 Act, to the effect of varying orders 1 and 5 and further extending the period of time allowed for the works specified in the RSEO, as varied, to 1 March 2021.
2. The decision of the tribunal was unanimous.

Reasons

3. Reference is made to the decision of the tribunal dated 6 March 2020 and the RSEO of the same date, ordering that the works specified therein had to be completed within 8 weeks days of the date of service of the notice. The date for compliance with the RSEO has passed.

4. Due to the Covid-19 pandemic no property re-inspections have been scheduled since mid-March 2020.
5. Since the RSEO was made, the Respondent has communicated with the tribunal in relation to progress of the works specified in the RSEO.
6. A Case Management Discussion took place on 18 February 2021 by teleconference. Reference is made to the Notes of the Case Management Discussion of the same date.

7. Section 25 of the Housing (Scotland) Act 2006 provides:

“(1) Where the First-tier Tribunal has made a repairing standard enforcement order, it may, at any time—

- (a) vary the order in such manner as it considers reasonable, or*
- (b) where it considers that the work required by the order is no longer necessary, revoke it.*

(2) Where subsection (3) applies, the First-tier Tribunal must vary the repairing standard enforcement order in question—

- (a) so as to extend, or further extend, the period within which the work required by the order must be completed, and*
- (b) in such other manner as it thinks fit.*

(3) This subsection applies where—

- (a) the First-tier Tribunal considers, on the submission of the landlord or otherwise, that the work required by a repairing standard enforcement order has not been, or will not be, completed during the period within which the order requires the work to be completed, and*

(b) the First-tier Tribunal —

- (i) considers that satisfactory progress has been made in carrying out the work required, or*
- (ii) has received a written undertaking from the landlord stating that the work required will be completed by a later date which the First-tier Tribunal consider satisfactory.*

(4) References in this Act (including this section) to a repairing standard enforcement order or to work required by such an order are, where the order has been varied under this section, to be treated as references to the order as so varied or, as the case may be, to work required by the order as so varied.”;

8. In light of the information submitted by the parties, the tribunal decided in terms of Section 25(1)(a) of the 2006 Act to vary the RSEO in the following respects.
9. The tribunal has varied Order number 1 in the RSEO, to add a requirement that the Respondent produces a gas safety certificate from a Gas Safe engineer which post-dates the boiler works in terms of the RSEO.

10. In relation to Order number 5, the Respondent advised that the Property has been emptied of all contents including the kitchen table. The tribunal has varied Order number 5 to remove the requirement for any repair work to the table.
11. The period for compliance with all orders, as varied, has been extended to 1 March 2021, to allow the Respondent the opportunity to obtain the gas safety certificate and to produce the video and documentary evidence referred to during the Case Management Discussion in respect of the other orders in the RSEO. The tribunal considered that it was reasonable to do so given the delays in the case as a result of the Covid-19 pandemic. The effect of the variation is that all works in the RSEO, in orders 1 to 5 as varied, require to be completed by 1 March 2021.

Right of Appeal

- 12. 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.**

Effect of section 63

13. 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.

S Tanner

Signed

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

Date 18 February 2021