

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber), statutory successor to the Private Rented Housing Committee in terms of the Tribunals (Scotland) Act 2014 and the First tier-Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (“the Tribunal”)

Revocation of Repairing Standard Enforcement Order (“RSEO”): Housing (Scotland) Act 2006 Section 25

Chamber Ref: PRHP/RT/16/0146

Land Certificate Title Number MID34920

Flat 4/5 (otherwise known as Flat 5, 4) Restalrig Crescent, Edinburgh EH7 6EX (“the House”)

The Parties:-

The City of Edinburgh Council,
East Office,
102 Niddrie Mains Road,
Edinburgh EH164DS
 (“the Third Party Applicant”)

Mr Gordon Shaw, formerly residing at the House
 (“the former Tenant”)

Mr Christopher Divens,
20 Hermitage Park,
Edinburgh EH6 8HB
 (“the Landlord”)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having determined on 12 October 2017 that the work required by the **RSEO** relative to the House dated 12 August 2016 and served on 6 September 2016 is no longer necessary, the said **RSEO is hereby revoked** with effect from the date of service of this Notice.

A landlord, tenant or third party applicant 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.

In terms of Section 63 of the Act, 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.

In witness whereof these presents type written on this and the preceding page are executed by Aileen Devanny, legal member of the Tribunal, at Glasgow on 25 October 2017 in the presence of the undernoted witness:-

A Devanny

Witness

Legal Member

REBECCA FORBES name in full

FIRST-TIER TRIBUNAL address

1 ATLANTIC QUAY

45 ROBERTSON ST

GLASGOW
G2 8JB

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber), statutory successor to the Private Rented Housing Committee in terms of the Tribunals (Scotland) Act 2014 and the First tier-Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (“the Tribunal”)

Notice of Decision under Housing (Scotland) Act 2006 Section 25

Chamber Ref: PRHP/RT/16/0146

Flat 4/5 (otherwise known as Flat 5, 4) Restalrig Crescent, Edinburgh EH7 6EX (“the House”)

The Parties:-

**The City of Edinburgh Council,
East Office,
102 Niddrie Mains Road,
Edinburgh EH164DS
 (“the Third Party Applicant”)**

**Mr Gordon Shaw, formerly residing at the House
 (“the Tenant”)**

**Mr Christopher Divens,
20 Hermitage Park,
Edinburgh EH6 8HB
 (“the Landlord”)**

1. The Private Rented Housing Committee issued a Repairing Standard Enforcement Order (RSEO) in respect of the House on 6 September 2016. This Order required the works specified in the RSEO to be completed on or before 6 October 2016.
2. The period for completion of works was extended to 14 March 2017 and the RSEO was varied to provide for this extension. The decision to vary the Order dated 9 February 2017 was issued to the parties on 14 February 2017.
3. A further inspection of the House was carried out on 6 April 2017 and that inspection revealed that all works required in the RSEO had been completed. The only matter remaining outstanding in the RSEO was that there were no keys located to fit the window handle mechanisms. The windows are PVC double glazed units.

4. A copy of the re-inspection report detailing the findings of the re-inspection on 6 April 2017 was circulated to the Tenant, the Third Party Applicant and the Landlord. The Landlord intimated in July 2017 that the Tenant had vacated the House and this fact was confirmed by the Third Party Applicant.

Decision and Reasons

5. The Tribunal noted that the Tenant had left the House and the provision of keys to the Tenant is no longer necessary. The flat is above ground level and therefore no security issues exist if the windows are not lockable and the windows are not at a level that will cause any safety issues for children. The Tribunal unanimously decided that the RSEO over the House be revoked as the works have been completed and the only remaining item outstanding in the RSEO is no longer necessary for the reasons narrated.

A landlord, tenant or third party applicant 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.

In terms of Section 63 of the Act, 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.

A Devanny

Chairing Legal Member
Dated: 12 October 2017

Housing and Property Chamber
First-tier Tribunal for Scotland



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

**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006
Section 24**

SECOND RE-INSPECTION REPORT

Chamber Ref: PRHP/RT/16/0146

Title no/Sasines Description: MID34920



**4/5 Restalrig Crescent Edinburgh EH7 6EX
("The Property")**

The Parties:-

**Mr Gordon Shaw
Resident at the property
("the Tenant")**

**The City of Edinburgh Council
East Office, 101 Niddrie Mains Road, Edinburgh, EH164DS**

**Mr Christopher Divens
20 Hermitage Park Edinburgh, EH6 8HB
("the Landlord")**

Date of Re-Inspection 6 April 2017
Time of Inspection 10.00am
Weather : dry and bright
Surveyor : Andrew D Murray FRICS, MIFireE

Those present;

Both the landlord and the tenant were present. A representative of COEC (not named) was also present.

Following on from the first re-inspection (carried out by Mr Ian H Murning TD FRICS, the following works required to be attended to;

- 1 Install a shower curtain/screen in the bathroom
- 2 Repair missing wall tiles in the bathroom to ensure no ingress of water between bath and internal wall
- 3 Replace bathroom door handle
- 4 Replace WC seat
- 5 Connect extractor fan in bathroom to power and ensure it is operating
- 6 Replace missing kitchen unit door
- 7 Repair the washing machine
- 8 Clean out rear gutters externally
- 9 Investigate source of dampness in the property and carry out works to ensure wind and watertight
- 10 Provide a key for each window to ensure all units can be locked/unlocked
- 11 Install smoke and heat alarms to ensure compliance with BS 5839 part 6

Works in the RSEO Undertaken

Using the same enumeration as above;

- 1 Completed
- 2 Completed
- 3 Completed
- 4 Completed
- 5 Completed
- 6 Completed
- 7 Completed
- 8 Completed. This work appears to have alleviated the water ingress problem in the rear bedroom (opposite the bathroom).
- 9 Completed. Work comprised of roof repairs to hip flashings.
- 10 Not completed.** The landlord has been unable to locate keys to fit the current handle mechanisms. The landlord intimated that he would return to fit new handles with keys for all windows. No timeline was offered for completing this work.
- 11 Completed. A hard wired heat detector is fitted in the kitchen. Hard wired smoke detectors are fitted in the lounge and hallway.

Further Observations

A problem of mould growth on the surfaces of the window units and on the surfaces of the shower curtain and wall tiling in the bathroom persists. It would be advisable, in an effort to reduce this problem, to keep all window vents open and ensure that the extract fan in the bathroom is on when the room is in use.

Andrew D Murray

7 April 2017
