

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement Of Decision to Vary Repairing Standard Enforcement Order: Housing (Scotland) Act 2006, Section 25(1)(a)

Chamber Ref: FTS/HPC/RP/16/1021

Flat 3/1, 17 Lawn Street, Paisley, PA1 1HD
("The property")

The Parties:-

Ms. Kuilin Liu, Flat 3/1, 17 Lawn Street, Paisley, PA1 1HD ("the applicant")

**Dr Jenny Wong and Mr Kai Chi Loi, 9/1, 15 Kirkton Avenue, Glasgow,
G13 3PF** ("the respondents")

Tribunal Members:

Adrian Stalker (Chairman) and Kingsley Bruce (Surveyor Member)

Decision

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), decided to further vary the RSEO served on 13 March 2017 with effect from the date of service of this Notice, in that the period allowed for the completion of the work required by the order is extended to 30 March 2018.

Findings; reasons for decision

1. Reference is made to the tribunal's determination in this case, in particular paragraph 9, findings in fact (xv), (xvi), (xxi) and (xxii):

It is evident, even on a visual inspection from ground level, that the roof of the building is in very poor condition, and in urgent need of substantial repair work. In particular, the guttering is choked and overflowing, particularly at the front of the building. A number of roof tiles are missing. Furthermore, the degree of water ingress and consequent internal damage is indicative of other defects.

For example, part of the ceiling at the top of the common stairs has collapsed, and there is an imminent danger of further collapse of the ceiling in this area.

The property was the subject of an inspection by Renfrewshire Council in October 2016. The Council has arranged a meeting for resident and non-resident owners in the building to discuss necessary common repairs, on 22 February.

Dr Wong has made arrangements to attend this meeting. She intends to work with other building owners to address outstanding common repairs issues.

2. In light of these issues, the tribunal stated, at paragraph 15 of its determination:

It is clear that substantial repairs are required to the roof and guttering of the building, which appear not to have been properly maintained for many years. To carry out the repairs properly may be costly. In order for those repairs to be effected, Dr Wong will require to co-operate with other owners in the building, and probably with the local authority. That process may take some time. The tribunal informed Dr Wong that, in the event that she is unable to comply with the RSEO within the stipulated time limit, she may apply for a variation under section 25 of the Act.

3. As anticipated, Dr Wong has, on behalf of both respondents, sought variations to allow further time for the work, which is ongoing, to be completed. Most recently, Dr Wong has advised the tribunal that the contractors appointed to carry out the roof work have failed to do so, necessitating the appointment of another contractor. This has led to the Renfrewshire Council (the local authority coordinating the work) to call for another landlords' meeting, in order that they may appoint another contractor. Dr Wong understands that it is unlikely that work will be able to start until the New Year. The tribunal accordingly finds in fact that the current timescale for completion of the work is such that a variation extending the order till the end of March 2018 is reasonable.
4. The tribunal considers that section 25(3) applies in this case: the work required by the RSEO has not been completed during the period required by the order, and it considers that satisfactory progress has been made in carrying out the work required.
5. The tribunal finds in fact that the applicant left the property some months ago, and it is not currently let. It should be let until the work is completed, as it does not currently meet the repairing standard.
6. The tribunal proceeded to vary the RSEO under section 25(1)(a), which Variation is referred to for its terms.
7. The decision of the tribunal was unanimous.

8. In terms of section 63 of the Housing (Scotland) Act 2006, this decision, and the variation, have effect from the date on which it is served.
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.**
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.

A Stalker

Signed

Date 5 December 2017

Chairman