

Housing and Property Chamber First-tier Tribunal for Scotland



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

Notice of Variation of a Repairing Standard Enforcement Order

In terms of Section 25 of the Housing (Scotland) Act 2006

Tribunal reference: RP/16/0222

Re 22 Dundonald Crescent, Auchengate, Irvine, Ayrshire, KA11 5 AX being the subjects registered in the Land Register of Scotland under title number AYR85278 ('the Property')

The Parties:-

Mr Kenneth Taylor, sometime residing at the Property ("The Tenant")

G1 Property Investments Limited (in Administration), (SC325033) Grant Thornton UK LLP, Level 8, 110 Queen Street, Glasgow, G1 3BX ("The Landlord")

Members of The First-tier Tribunal for Scotland Housing and Property Chamber ("the Tribunal"): Martin J. McAllister, solicitor, legal member and Kingsley Bruce, surveyor, ordinary member.

NOTICE TO

G1 Property Investments Limited (In Administration)

The Tribunal having determined on 25th July 2017 that the Repairing Standard Enforcement Order relative to the Property and made on 16th August 2016 (subsequently varied) should be further varied, the said Repairing Standard Enforcement Order is HEREBY VARIED with effect from the date of service of this Notice in the following respect:-

The period allowed for the completion of the work required by the order is extended until 15th September 2017.

Subsection 25(3) of the Housing (Scotland) Act 2006 does apply in this case.

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.

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 on this and the preceding page are executed at Kilwinning on 25th July 2017 by Martin Joseph McAllister, Solicitor, legal member of the Tribunal before Kayleigh Guthrie, 84 Main Street, Kilwinning

M McAllister

K Guthrie

(witness)

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Determination: Section 25(1) (a) of the Housing (Scotland) Act 2006

Chamber Ref: RP/16/0222

Title no: AYR85278

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The Parties:-

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Members of The First-tier Tribunal for Scotland Housing and Property Chamber: Martin J. McAllister, solicitor, legal member and Kingsley Bruce, surveyor, ordinary member.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determines

That the repairing standard enforcement order (RSEO) made on 16th August 2016 and subsequently varied be varied further to allow the Landlord until 15th September 2017 to carry out the works .

Reasons:

1. A private rented housing committee had made a repairing standard enforcement order on 16th August 2016 following upon an inspection and hearing on 8th August 2016. The Tribunal assumed responsibility for the matter on 1st December 2016.
2. There were difficulties experienced by the Landlord in gaining access to the Property to enable compliance with the terms of the RSEO.

3. The RSEO was varied on 18th April 2017 to allow the Landlord eight weeks from service of the Notice of Variation to carry out the works required by the RSEO.
4. The ordinary member of the Tribunal inspected the Property on 20th June 2017 and a copy of the report is attached hereto. The report states that the works required by the RSEO had not been completed.
5. The Landlord intimated to the Tribunal that the tenancy had been lawfully terminated.
6. On 12th July 2017 the Landlord wrote to the Tribunal, reported on the progress of repairs and indicated that the timescale for compliance with the RSEO could not be met because of resistance from the Tenant.
7. The Landlord requested that the Tribunal exercise its discretion under Section 25 (1) (b) of the Act and revoke the RSEO because it is the intention of the Landlord to sell the Property. It was stated that the Property could no longer be considered to be "private rented stock" since the tenancy had been terminated and the Property is to be sold. The Landlord asked that a conference call be held with it to determine the matter and that this would be more cost effective for it rather than a Hearing.
8. The Tribunal considered that it was not appropriate to hold a conference call and that it had enough information to make a determination on matters.
9. The Tribunal considered the request that the RSEO be revoked because it is no longer necessary. The work required by the RSEO had not been completed and it therefore considered that it is still necessary. It did not consider the Landlord's intention to sell the property to be relevant because such a sale, in itself, would not necessarily remove the Property from the private rented housing stock.
10. The Tribunal considered it reasonable that the Landlord be give more time to comply with the RSEO.
11. In coming to its Decision the tribunal had regard to the terms of the overriding objective set out in Rule 3 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016.

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.

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 McAllister

Martin J. McAllister
Legal member of the tribunal
25TH July 2017

25 July 2017
This is the inspection report
referred to in decision of even date
re. 22 Dundonald Crescent, Auchengate,
Irvine, KA11 5AX

Housing and Property Chamber
First-tier Tribunal for Scotland



Housing and Property Chamber Re-inspection Report

Property: 22 Dundonald Crescent, Auchengate, Irvine, Ayrshire, KA11 5AXRef
No: PRHP/RP/16/0222

Surveyor: Kingsley K Bruce, MRICS

Access:

I re-inspected the property at 11:30 on Tuesday 20 June 2017.

The interior of the house was inspected visually, whilst standing at floor level within the various rooms, the exterior, whilst standing at ground level in the garden or on the street adjacent.

In Attendance:

My inspection was accompanied by a representative of the Landlord, Mr Liam Mackay of Cairn Property, the Tenant, who lodged the application and attended the previous inspection and hearing, was not present and had vacated the property.

The property was vacant and unfurnished.

Weather:

Conditions were generally dry and bright at the time of my re-inspection.

Requirements of the Repairing Standard Enforcement Order (RSEO):

The RSEO of August 2016 required the landlord, as follows:

Committee accordingly determined that the Landlord has failed to comply with the duties imposed by Section 14(1)(b), of the Act, as stated.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) and 24(2) of the 2006 Act in the following terms:

- a) The Landlord requires to provide to the Committee a certificate from a qualified Gas Safe Registered Engineer confirming that the installations in the Property for the supply of gas are in a reasonable state of repair and in proper working order.
(Section 13 (1) (c) of the 2006 Act).*
- b) The Landlord requires to repair or replace the toilet to ensure that it functions properly and also to properly secure the cistern to the wall.
(Section 13 (1) (c) of the Act).*
- c) The Landlord requires to ensure that heat and smoke alarms comply with the requirements of the revised Domestic Technical Handbook issued by Scottish Government's Building Standards Division (Technical Handbooks 2013:- Domestic-Fire)
(Section 13 (1) (f) of the Act).*
- d) The Landlord requires to repair the roof and replace missing roof and ridge tiles.
(Section 13 (1) (a) of the Act).*
- e) The Landlord requires to ensure that the rainwater goods are in efficient working order and to repair or replace where necessary.
(Section 13 (1) (a) of the Act).*
- f) The landlord requires to repair or renew the external waste pip from the kitchen sink.
(Section 13 (1) (a) of the Act).*

In view of the nature of the failure to meet the Repairing Standard as defined in the 2006 Act, the committee determined that the repairing standard enforcement order requires to be complied with by the date twenty eight days from service of the repairing standard enforcement order upon the Landlord.

Works required by the RSEO which have been undertaken:

- A Gas safety certificate is understood to have been obtained by the Landlord
- Smoke and heat alarms, sufficient to meet requirements for detection of fire had been installed and which appeared to be powered by mains supply.

No evidence of other works was apparent.

It was also noted that the electricity meter had apparently been removed from the property by persons unknown, the smoke/heat detectors could not be tested.

Kingsley K Bruce, MRICS
Member
First Tier Tribunal for Scotland
Housing and Property Chamber

27 June 2017

PHOTOGRAPHS TAKEN AT TIME OF RE-INSPECTION:







