

Housing and Property Chamber First-tier Tribunal for Scotland



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

**Failure to Comply with Repairing Standard Enforcement Order: Housing (Scotland)
Act 2006 section 26**

Chamber Ref: PRHP/RP/16/0040

Title no: ABN73177

**Property at 96 Ashgrove Road West, Aberdeen, AB16 5BD
("The House")**

The Parties:-

**Hassan Ghanduri, formerly residing at 96 Ashgrove Road West, Aberdeen, AB16 5BD
("the former Tenant")**

**Mr Samuel Ahamfule, Staff House, Woodend Hospital, Eday Road, Aberdeen ("the
Landlord") represented by his agent AM-PM, 441 Union Street, Aberdeen, AB11 6DA
("the Landlord's Agent")**

The Tribunal comprised:-

**Mrs Ruth O'Hare – Legal Member
Mr Colin Hepburn – Surveyor Member**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order ("RSEO") determined that the Landlord had failed to comply with the terms of the RSEO and in terms of section 26(1) of the Housing (Scotland) Act 2006 determined that a notice of the failure be served on the Local Authority in which the property is situated.

Background

1. Reference is made to the determination of the Private Rented Housing Committee ("the Committee") dated 20 June 2016 which concluded that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act in that he had failed to ensure that the Property met the Repairing Standard. On the same date the Committee issued an RSEO in respect of the property. The works required by the RSEO were:-
 - (a) Instruct a professional window installer to carry out a full inspection of all windows in the property and carry out any works identified to ensure the property is wind, watertight and in a reasonable state of repair;
 - (b) Repair or replace the toilet seats in both the downstairs washroom and the upstairs bathroom;

- (c) Repair or replace the shower screen in the upstairs bathroom to prevent water spillage and carry out works to reinstate the bathroom flooring and kitchen ceiling as required;
- (d) Replace the surround for the sink in the upstairs bathroom so that it is secure and fit for purpose;
- (e) Instruct a gas safety certificate from a GasSafe registered contractor and carried out any works identified to ensure the installations within the property for the supply of gas are in a reasonable state of repair and in proper working order;
- (f) Instruct an inspection report by a qualified electrician and carry out such works identified in the report to ensure the installations within the property for the supply of electricity are in a reasonable state of repair and in proper working order;
- (g) Carry out repairs to the oven and cooker hob to ensure both are in proper working order;
- (h) Carry out works to the summerhouse to repair the roof;
- (i) Repair the gate in the front garden to ensure it closes properly;
- (j) Carry out the necessary works to resecure the loose and damaged sections of the concrete copings pertaining to the walls in the back and front garden;
- (k) Repair the door bell;
- (l) Repair or replace the side door to the garage to ensure it is fully functional;
- (m) Repair the corroded hand rails in the front garden; and
- (n) Carry out all works required to make good decoration in the property following the above works.

The RSEO gave the Landlord three months to carry out the works.

2. Following its decision of 20 June 2016 the Tribunal was made aware that the Tenant had vacated the property.
3. On 8 November 2016 the Surveyor Member re-inspected the property on behalf of the Tribunal. Duncan Kerr, a representative for the Landlord's Agent allowed access to the property. The Landlord was not present. The Surveyor Member noted that some upgrading works had been carried out to the electrical installations within the property however no inspection report from a qualified electrician had been produced. The remainder of the works required by the RSEO were outstanding. No explanation was forthcoming from the Landlord's Agent as to why the works had not been completed and there was no indication of any timescale for completion of the works. The Surveyor Member produced a re-inspection report dated 19 November 2016 which is referred to for its terms.
4. By letter dated 15 December 2016 the Tribunal wrote to the Landlord and the Landlord's Agent inviting them to make written representations and seeking confirmation as to whether they wished an oral hearing. No response was received from either the Landlord or the Landlord's Agent. The Tribunal was satisfied having regard to all of the available

evidence that there was sufficient information and material upon which to reach a fair determination of the matter without requiring a further oral hearing.

Reasons for decision

5. The Tribunal accepted the terms of the re-inspection report. No representations had been received from either the Landlord or the Landlord's Agent disagreeing with its content.
6. The Tribunal noted that the Landlord had carried out some upgrading works to the electrical installations in pursuance of part (f) of the RSEO however no inspection report from a qualified electrician had been produced. The remainder of the works required by the RSEO remained outstanding. It was therefore clear to the Tribunal that the Landlord had failed to fulfil any of the requirements of the order. The Tribunal was aware that the order had been issued to the Landlord in June 2016 and considered that he had been given ample time to progress the works required.
7. There had been no indication from the Landlord or his agent as to his intentions regarding the works and no timescale was forthcoming for their completion. The Tribunal was therefore satisfied that nothing had been put before it to persuade Members that satisfactory progress had been made in respect of the works required by the RSEO. There was accordingly no duty on the Tribunal under section 25(3) to vary the terms of the order to extend the time limit for carrying out the works. In the absence of any assurances from the Landlord or his agent, the Tribunal could not be satisfied that the Landlord had any intention of carrying out the remainder of the works required by the RSEO which were significant and of a serious nature. The Tribunal therefore determined it had no option but to determine that the Landlord had failed to comply with the RSEO.

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.

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(s) are executed by Ruth O'Hare, Solicitor, 7 Mossbeath Grove, Glasgow, G71 7UU, chairperson of the tribunal at Stirling on 18 January 2017 before this witness:-

L Grant

R O'Hare

_____ witness

_____ chairperson

Lauren Grant
c/o Stirling Council
Old Viewforth
Stirling
FK8 2ET



**Private Rented Housing Panel (prhp)
Re-inspection report**

Date of inspection: 08/11/2016
Reference Number: PRHP/RP/16/0040
Property: 96 Ashgrove Road West , Aberdeen , AB16 5BD
Surveyor: Colin F Hepburn
Access: Access provided by landlords agent
In attendance: Mr Duncan Kerr

Repairing Standard Enforcement Order (RSEO)

Whereas in terms of its decision dated 20th June 2016, the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed on it by Section 14(1)(b) of the Act, and in particular that the landlord has failed to ensure that the house meets the repairing standard in that:

- The property is not wind and watertight and in all other respects reasonably fit for human habitation
- The installations in the house for the supply of gas and electricity are not in a reasonable state of repair nor in proper working order

Works required by the RSEO:

The Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of the works in terms of the order is made good.

In particular the Private Rented Housing Committee requires the landlord to carry out the following work:

- 1 Instruct a professional window installer to carry out a full inspection of all windows in the property and carry out any works identified to ensure the property is wind and watertight and in a reasonable state of repair.

- 2 Repair or replace the toilet seats in both the downstairs washroom and the upstairs bathroom.
- 3 Repair or replace the shower screen in the upstairs bathroom to prevent water spillage and carry out works to reinstate the bathroom flooring and kitchen ceiling as required.
- 4 Replace the surround for the sink in the upstairs bathroom so that it is secure and fit for purpose.
- 5 Instruct a gas certificate from a Gas Safe registered contractor and carry out any works identified to ensure the installations within the property for the supply of gas are in a reasonable state of repair and in proper working order.
- 6 Instruct an inspection report by a qualified electrician and carry out such works identified in the report to ensure the installations within the property for the supply of electricity are in a reasonable state of repair and in proper working order.
- 7 Carry out repairs to the oven and cooker hob to ensure both are in proper working order.
- 8 Carry out repairs to the summer house to repair the roof.
- 9 Repair the gate to the front garden to ensure it closes properly
- 10 Carry out the necessary works to re-secure the loose and damaged sections of the concrete copings pertaining to the walls in the front and back garden
- 11 Repair the door bell
- 12 Repair or replace the side door to the garage to ensure it is fully functional.
- 13 Repair the corroded hand rails in the front garden
- 14 Carry out all works required to make good decoration in the property following the above works

Works in the RSEO undertaken:

At the time of the inspection the property was vacant but part furnished. The majority of the works recommended have not been undertaken. However it did appear that the landlord had engaged an electrician and that some upgrading works to the electrical system had been undertaken.

However no EICR report was available for inspection.

Outstanding works:

In essence the majority of the works required in the RSEO remain to be completed. A copy of the EICR report should be provided by the landlord

Photographs were taken on the day of inspection and are attached.

Colin F Hepburn

19/11/2016:

