

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland Housing and Property Chamber made under Sections 26 and 28 of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/RT/16/0291

The Property

192 Deanswood Park, Livingston EH54 8QG (“the Property”)

The Parties:-

West Lothian Council Housing Needs Team-Homelessness Prevention (“the Third Party Applicant”)

Anwar UL Haq, 7 Fulmar Brae, Ladywell West, Livingston EH54 8DQ and/or 1A Tweed Drive, Craigshill, Livingston EH54 5LS (“the Landlord”)

Tribunal Members: George Clark (Legal Member/Chair) and Donald Wooley (Ordinary/surveyor Member)

Direction

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) determined that the Landlord has re-let the Property in a period during which a Repairing Standard Enforcement Order in respect of the Property has effect and that, as he may have committed an offence under Section 28(5) of the Housing (Scotland) Act 2006, the Tribunal’s Decision should be intimated to the local authority, and to Police Scotland for possible prosecution.

Background and Reasons for Decision

On 10 January 2017, the Tribunal made a Repairing Standard Enforcement Order (“the Order”) in respect of the Property under Section 24 of the Housing (Scotland) Act 2006 (“the 2006 Act”).

On 4 April 2017, the Tribunal reinspected the Property and identified that none of the works required by the Order had been completed.

On 6 March 2020, the Ordinary/surveyor Member of the Tribunal attended the Property to carry out a further reinspection, proper notice of which had been given to the Landlord. The Landlord was not present or represented, and the Tribunal Member was unable to gain access, as the Property was unoccupied. The Tribunal Member noted, however, that the Property appeared to be inhabited, as a light was on in the upper floor bathroom, a bedroom window was open, and items were clearly visible on the upper floor

windowsills. The ground floor blinds were drawn. A neighbouring occupier also confirmed that the property was currently being lived in. Due to the COVID-19 pandemic restrictions, the Tribunal has been unable to further inspect the Property and, following a Case Management Discussion on 20 January 2021, the Tribunal, extremely concerned for the safety of any occupants of the Property that there may be no systems in place to warn them in the event of fire or possible fire and recognising that any such a fire might have a wider effect, as the Property is terraced, directed the Landlord to provide, no later than 17 February 2021, photographs showing the location of the smoke and heat detectors within the Property and either a copy of a receipted Invoice from the contractor who installed the smoke and heat detectors or a satisfactory current Electrical Installation Condition Report in respect of the Property issued by a SELECT, NAPIT or NICEIC registered electrical contractor, covering the smoke and heat detectors. The Tribunal, in its Decision, advised the Landlord that if he failed to comply with the Direction, the Tribunal would draw the inference that the he has still failed to comply with the Order and would determine what further procedure is appropriate.

The Landlord has not complied with the Direction. The Tribunal, therefore, concluded that the Landlord continues to fail to comply with the Order and that the inference to be drawn from the attempted reinspection on 6 March 2020 is that the Landlord has re-let the Property in a period during which the Order has effect and that he may, therefore, have committed an offence under Section 28(5) of the 2006 Act. The Tribunal decided, therefore, that its Decision should be intimated to the local authority in respect of its role in landlord registration, and to Police Scotland for possible prosecution.

The Decision of the Tribunal was unanimous.

Right of Appeal

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.

G Clark

Signed

... Legal Member/Chair

Date15/03/2021.....