

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland made under The First- tier Tribunal for Scotland (Housing and Property Chamber (Procedure) Regulations 2016 (as amended)

Chamber Ref: PRHP/RP/16/0239

Re: Property at 56 North Bank Street, Prestonpans, East Lothian EH32 9BY (“the Property/the house”)

Title No: ELN10084

The Parties:-

Jacqueline Scott, residing at 56 North Bank Street, Prestonpans, East Lothian EH32 9BY (“the Tenant”)

Darren Eales, residing at 12 North Bank Road, Prestonpans, East Lothian EH32 9DH (“the Landlord”)

Tribunal Members: George Clark (Legal Chair), David Lawrie (Ordinary Member)

Decision

The Tribunal determined that the wording of the Rent Relief Order that it had made in respect of the Property on 29 March 2017 contained a clerical error or other accidental slip, in that it wrongly stated the date on which the Order was to have effect and that the Order should be corrected in terms of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016, as amended by The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2017.

Background

- 1. On 29 March 2017, the Tribunal made a Rent Relief Order in respect of the Property. The Order stated that it had effect from the first date of the month following the last date on which the Order could be appealed.**
- 2. The Order was not appealed under Section 64 of the Housing (Scotland) Act 2016 (“the Act”).**
- 3. Subsequent to the last date on which the Order could be appealed, the Tribunal’s attention was drawn by the local authority to the fact that its wording did not comply with the provisions of Sections 63(4) and 63(5) of the Act in that it wrongly stated that the date on which the Order was to come into effect was the first day of the month following the last date on which the decision to make the Order could be appealed.**

4. Sections 63(4) and 63(5) of the Act provide that a Rent Relief Order has effect from the date which is 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the Act.

Summary of the issues

5. The issues to be determined were whether the wording of the Order contained a clerical mistake or other accidental slip, whether it should be corrected and whether such correction would result in any prejudice to either of the Parties.

Reasons for the Decision

6. The Tribunal found that it had been established that the date on which the Rent Relief Order was stated to have effect was incorrect.
7. The Tribunal has no discretion to depart from the provisions of Sections 63(4) and 63(5) of the Act.
8. Rule 5 of the schedule 1 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016, as amended by The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2017, provides that the Tribunal may at any time correct any clerical mistake or other accidental slip or omission contained in a decision, order or any document produced by it, by sending notification of the amended decision or order, or a copy of the amended document to all parties and making any necessary amendment to any information published in relation to the decision, order or document.
9. The Tribunal was satisfied that the error was a clerical mistake or other accidental slip.
10. The Tribunal was satisfied that amending the decision would not result in prejudice to either of the Parties..

Decision

11. The Tribunal accordingly determined that the terms of the Order made on 29 March 2017 should be corrected, to be compliant with the provisions of Sections 63(4) and 63(5) of the Act.
12. The decision of the Tribunal was unanimous.

Right of Appeal

13. **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.**
14. **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.

Signed **G Clark** Date: 18 July 2017
Legal Member/Chair



Rent Relief Order

**Ordered by the Housing and Property Chamber of the First-tier
Tribunal for Scotland under Section 27 of the Housing (Scotland)
Act 2006**

Chamber Ref:prhp/rp/16/0239

Re: Property at 56 North Bank Street, Prestonpans, East Lothian EH32 9BY ("the Property/the house")

Title Number: ELN10084

The Parties:-

Jacqueline Scott, residing at 56 North Bank Street, Prestonpans, East Lothian EH32 9BY ("the Tenant") and

Darren Eales, residing at 12 North Bank Road, Prestonpans, East Lothian EH32 9DH ("the Landlord")

Tribunal Members: George Clark (Legal Chair), David Lawrie (Ordinary Member)

NOTICE TO DARREN EALES ("the Landlord")

Whereas in terms of their decision dated 29 March 2017, the Housing and Property Chamber of The First-tier Tribunal for Scotland ("the Tribunal") determined, in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Private Rented Housing Committee on 28 September 2016.

The Tribunal determined to make a Rent Relief Order in terms of Section 27 of the Act reducing the rent payable under the tenancy for the house by an amount of 85% of the rent which would, but for the Order, be payable. The rent reduction will take effect on the date which is 28 days after the last date on which the decision to make the Rent Relief Order may be appealed.

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 Legal Member/Chair 29 March 2017