

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 26(1) of the Housing (Scotland) Act 2006

Chamber Ref: Ref PRHP/RT/16/0279 and PRHP/RT/16/0280

Property 6 B, Academy Street, Dumfries, DG1 1BY being part of the subjects described in the Disposition by Paul Gulzara Singh and others as Trustees for their firm of Alpine Properties in favour of Victor Balwinder Singh dated 30th November 1993 and recorded in the Division of the General Register of Sasines for the County of Dumfries on 11th January 1994 (Search Sheet Number 9256) ('the Property')

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')

Victor Singh and Mrs Elayne Singh residing at Beechwood Bank, Nithbank, Dumfries, DG1 2RZ ('the Landlords')

Miss Paula Curley residing formerly at 6, Academy Street, Dumfries, DG1 1BY ('the Tenant')

The Tribunal members are Jacqui Taylor (Chairperson) and Robert Buchan (Ordinary Member).

Background

1. The Private Rented Housing Committee ('the Committee') issued a Repairing Standard Enforcement Order ('RSEO') in respect of the Property which required the Landlords to:-

'1. Repair the roof of the Property, including the communal stairwell, to render it wind and water tight and in proper working order.

2. Repair or replace the broken window in the stairwell.

3. Repair or replace the window joinery and fascias of the dormer windows to render them wind and water tight and in proper working order.

4. Repair or replace the defective rendering between the roof at the front of the property and the adjoining building to render it in proper working order.

5. Remove the vegetation from the downpipes and rainwater fittings to render them in proper working order.

6. *Reinstate the fallen ceiling in the front bedroom and repair the bathroom ceiling to render them in proper working order.*
 7. *Repair the water ingress to the hall cupboard to render it wind and water tight and repair or replace the damp hardboard flooring of the hall cupboard.*
 8. *Repair or replace the kitchen window to render it in proper working order.*
 9. *Carry out a certificated electrical condition check (EICR) of the electrical installation (including the smoke and heat detectors) by a suitably qualified and registered SELECT or NICEIC electrical contractor and carry out any required works. Provide a copy of the compliant EICR to the PRHP Committee.*
 10. *Reinstate or replace the boiler and make good the holes in the external wall.*
 11. *Provide a compliant Gas Safety Certificate to the PRHP Committee.'*
2. The Committee ordered that the works specified in the RSEO were to be carried out and completed by 31st January 2017.
 3. On 1st December 2016 jurisdiction of the Private Rented Housing Panel passed to The Housing and Property Chamber.
 4. On 8th February 2017 the Landlords wrote to the Tribunal Administration and advised: *'The above Property has been cleared and a complete renovation programme will commence later this year.'* The Tribunal takes the inference from this letter that the works required to be carried out in terms of the RSEO have not been completed.
 6. The Tribunal Administration sent letters to the Landlords dated 31st January 2017 and 10th March 2017 requesting confirmation as to whether the Landlords wish to apply for a variation of the RSEO. No response was received to those letters.

Decision and Reasons

7. The Tribunal determined that the RSEO has **not been complied with**. Accordingly the Tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlords has complied with the Repairing Standard Enforcement Order, in relation to the Property concerned, determined that the Landlords have failed to comply with the RSEO in terms of section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the Property is situated.
8. As the original Tenant had vacated the Property the Tribunal did not proceed to consider if a Rent Relief Order should be made. However the Tribunal remind the Landlords that it would be a criminal offence to re-let the property whilst the RSEO is in force.

Appeals

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.

J Taylor

Signed.....
Chairperson

..... Date 7th April 2017