

Housing and Property Chamber First-tier Tribunal for Scotland



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

RENT RELIEF ORDER: Housing (Scotland) Act 2006 Section 27

Chamber Ref: PRHP/RT/16/0245

Title no: WGN3942

8 St.Stephens, Stoneykirk, Stranraer, DG9 9DQ being the subjects registered in the Land register of Scotland under Title Number WGN3942 ('The Property')

The Parties:-

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

Mrs Elizabeth Seabourne or Touray residing at 107, Sheuchan Street, Stranraer, DG9 0ES ('the Landlord')

Agnes McIntyre residing at 8 St.Stephens, Stoneykirk, Stranraer, DG9 9DQ ('the Tenant')

The First-tier Tribunal for Scotland (Housing and Property Chamber), formerly the Private Rented Housing Committee, ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Andrew Taylor (Ordinary Member).

NOTICE TO ("the Landlord")

Whereas in terms of its decision dated 20th February 2017, the Tribunal determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Tribunal dated 30th September 2016.

The Tribunal determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 90% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under section 64 of the said Act.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

If a party seeks permission to appeal and this permission is refused, the decision will be treated as having effect from the day on which the refusal is made (unless the party then seeks permission from the Upper Tribunal to appeal the decision. In that event, if permission is refused, the decision is treated as having effect from the day on which the Upper Tribunal refuses the permission).

If permission for an appeal against the decision of the tribunal is granted, then the effect of the decision and the Rent Relief Order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal. In the event that the decision is upheld, then the decision will be treated as having effect from the day on which the appeal is abandoned or so determined. The Rent Relief Order will be effective 28 days from the date on which the appeal is abandoned or so determined.

If an application for permission to appeal is received, then the tribunal will notify you of this and the eventual outcome of that application and any subsequent appeal.

Signed J Taylor
Chairperson

Date 22nd February 2017

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: PRHP/RT/16/0245

Title no: WGN3942

8 St.Stephens, Stoneykirk, Stranraer, DG9 9DQ being the subjects registered in the Land register of Scotland under Title Number WGN3942 ('The Property')

The Parties:-

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

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Agnes McIntyre residing at 8 St.Stephens, Stoneykirk, Stranraer, DG9 9DQ ('the Tenant')

The First-tier Tribunal for Scotland (Housing and Property Chamber), formerly the Private Rented Housing Committee, ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Andrew Taylor (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. Carry out a certificated electrical condition check (EICR) of the electrical installation 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.

2. Repair or replace the front and back doors to render them wind and water tight and in proper working order.

3. Repair or replace the kitchen cupboards and worktops to render them in proper working order.

4. Repair the leak to the W.C.

5. Replace the ceiling light fitting in the kitchen.

6. Clean the gutters to render them in proper working order.

7. Install:

7.1 One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.

7.2 One functioning smoke alarm in every circulation space, such as hallways and landings.

7.3 One heat alarm in every kitchen.

7.4 All alarms should be hardwired and interlinked and

7.5 One CO detector in every space containing a fixed combustion appliance.'

2. The Committee ordered that the works specified in the RSEO were to be carried out and completed by 10th November 2016.
3. On 9th December 2016 the surveyor member of the Committee carried out an inspection of the Property for the purpose of ascertaining whether the said repairs required by the RSEO had been completed. He found that none of the required works had been completed. His inspection report dated 12th December 2016 is annexed and executed as relative hereto.
4. On 1st December 2016 jurisdiction of the Private Rented Housing Panel passed to The Housing and Property Chamber.
6. The Tribunal Administration sent an email to the Landlord dated 20th January 2017 requesting her comments on the terms of the reinspection report. No response was received to that email

Decision and Reasons

7. Accordingly the Tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order, in relation to the Property concerned, determined that the Landlord has failed to fully 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. The Committee considered whether a Rent Relief Order should be made in terms of section 27 of the Act and determined that such an Order should be made given the Landlord's failure to comply with the RSEO without reasonable excuse. They then considered the amount by which the rent payable under the tenancy in question should be reduced. They considered the failure by the Landlord to carry out the repairs materially affected the Tenant's enjoyment of the property. They were very concerned that the electrical condition report had not been provided and the required smoke alarms, heat detectors and CO detectors had not been installed as these matters are serious health and safety concerns. In all the circumstances they determined that an appropriate reduction in rent would be to reduce the rent payable under the tenancy by 90%. They considered that the

Rent Relief Order should be effective from 28 days after the last date in which the decision the Rent Relief Order may be appealed under Section 64 of the Act.

Appeals

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.

Signed _____
Chairperson

J Taylor

_____ Date 20th February 2017



Re-Inspection Report



Property – 8 St Stephens, Stoneykirk, Stranraer, DG9 9DQ

Reference- PRHP/RP/16/0245

Surveyor – Andrew Taylor, MRICS

Previous Inspections – Full Committee – 27th September 2016

Re-inspection – 11.30am, 9th December 2016

Weather – Dry, overcast

In Attendance – Agnes McIntyre, Tenant, Amanda Green, Dumfries and Galloway Council, Housing Services.

Purpose of Re-inspection - To establish if the work required under the Repairs Standard Enforcement Order had been completed.

RSEO – In terms of the RSEO issued on 30th September 2016 the Landlord was required to carry out such work as was necessary to ensure that the house meets the repairing standard and in particular the following specific areas: -

1. Carry out a certificated electrical condition check (EICR) of the electrical installation 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.

2. Repair or replace the front and back doors to render them wind and watertight and in proper working order.
3. Repair or replace kitchen cupboards and worktops to render them in proper working order.
4. Repair the leak to the W.C.
5. Replace the ceiling light fitting in the kitchen.
6. Clean the gutters to render them in proper working order.
7. Install :
 - 7.1 One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.
 - 7.2 One functioning smoke alarm in every circulation space, such as hallways and landings.
 - 7.3 One heat alarm in every kitchen.
 - 7.4 All alarms should be hardwired and interlinked and
 - 7.5 One CO detector in every space containing a fixed combustion appliance.

Works In RSEO Carried Out

1. Nil

Works In RSEO Outstanding at Inspection

1. Carry out a certificated electrical condition check (EICR) of the electrical installation 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 First-tier Tribunal.

2. Repair or replace the front and back doors to render them wind and watertight and in proper working order.

3. Repair or replace kitchen cupboards and worktops to render them in proper working order.

4. Repair the leak to the W.C.

5. Replace the ceiling light fitting in the kitchen.

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Photographs



Back Door - December 2016



Front door- December 2016



Kitchen cupboards/worktops December 2016



Kitchen cupboards/worktops – December 2016



Missing light fitting in kitchen – December 2016



Leak at WC – December 2016



Gutters – December 2016

Comments

This Report will be distributed to the landlord and third party, Dumfries and Galloway Council for comments and will be referred to the Tribunal of the Housing and Property Chamber, First-tier Tribunal For Scotland for their consideration and further action.

Andrew Taylor MRICS

Surveyor Member, Housing and Property Chamber, First-tier Tribunal For Scotland

12th December 2016