

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: RP/16/0270

**76 Church Court
Philpstoun
Linlithgow
EH49 6RB**

("The Property")

The Parties:-

**Ms Elena Bader, residing at 76 Church Court, Philpstoun, Linlithgow
EH49 6RB**

("the Tenant")

**Mrs Shona Mann, residing at 6 Sowdley Green, Wheaton Aston, Stafford,
ST19 9QB**

("the Landlord")

Tribunal Members

Paul Doyle	Legal Member
Greig Adams	Ordinary Member

Whereas in terms of its decision dated 19 June 2017, the First-tier Tribunal for Scotland (Housing and Property Chamber) (formerly the Private Rented Housing Panel) ('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.

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 75% 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.

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.

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
Chairperson

P Doyle

19 June 2017

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Statement of facts and reasons for Decision to grant a
Rent Relief Order
Under Section 27 of the Housing
(Scotland) Act 2006**

Chamber Ref: RP/16/0270

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Philpstoun
Linlithgow
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("The Property")

The Parties:-

**Ms Elena Bader, residing at 76 Church Court, Philpstoun, Linlithgow
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Paul Doyle	Legal Member
Greig Adams	Ordinary Member

STATEMENT OF FACTS & REASONS.

(1) On 5 January 2017 the First-tier Tribunal for Scotland (Housing and Property Chamber) (formerly the Private Rented Housing Panel) ("the tribunal") requiring the Landlord to comply with the repairing standard enforcement order made by the Committee on 5 January 2017.

(2) The decision of the Private Rented Housing Committee required the landlord to

(a) repair or replace the render to each of the external walls of the property to make the property wind and watertight

(b) to investigate and eliminate the water ingress around the windows on the ground and first floors to the front of the property and ensure that every window in the property has a watertight seal.

(c) when the property is wind and watertight, and the interior walls have dried out, to remove the damp staining from the interior walls of the living room and first floor front bedroom and to redecorate the living room and front bedroom when the remedial works are completed.

All within 8 weeks of the date of service of service of the order.

(3) On 6 April 2017 the ordinary member of the tribunal re-inspected the property. A copy of his re-inspection report is annexed hereto and referred to for its terms, which are incorporated herein *brevitatis causa*.

(4) When he re-inspected the property, the ordinary member found

(a) Rendering works have not been completed and the property is not wind and watertight. Scaffolding remained to the Front Elevation and provision of a new dry dash render had been provided to the front elevation with the exception of ingoes/jambs of windows/main entrance door which remained incomplete whilst sealant works were also outstanding over the Front Elevation. There was no evidence of any works having been undertaken to the Gable Elevation.

(b) Evidence of water ingress around the front windows remains and remedial works remain outstanding. Utilising a thermal imaging moisture meter, moisture profiling of the front walls within the Ground Floor Living Room and First Floor Front Bedroom exhibited high moisture readings below the window cill areas whilst a further isolated area of high readings were recorded within the Bedroom to the gable wall centrally above the bed. Externally, sealant works and rendering to ingoes/jambs remains outstanding and an effective and watertight seal has not been provided.

(c) No internal remediation works have been progressed whilst the property has not been repaired to be considered wind and watertight nor have interior walls been dried out.

(5) The ordinary member's re-inspection report was circulated to parties for their comments. The Landlord responded by saying that the work has been started but could not be completed because of poor weather conditions. The tenant complained that inadequate effort has been made by the landlord, and that she is living in a damp property.

(6) More than six months have passed since the RSEO was served on the landlord. 8 weeks is a reasonable period of time to complete the required works. In the circumstances, the tribunal can only come to the conclusion that the Landlord has not complied with the repairing standard enforcement order dated 5 January 2016. Accordingly, the tribunal decides to impose a rent relief order. As the landlord has not diligently pursued the repairs required, and the quality of the tenant's peaceful enjoyment of the property is adversely affected by the Landlord's decision, the tribunal decided that significant restriction of

rental is merited. The Committee therefore granted a Rent Relief Order for 75% of the monthly rental.

(7) 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.

(8) 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.

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
Chairperson

.. **P Doyle**..... 19 June 2017

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Re-Inspection Report

Chamber Ref: RP/16/0270



**76 Church Court
Philipstoun
Linlithgow
EH49 6RB
("The Property")**

Title no: WLN21240

The Parties:-

**Ms Elena Bader, residing at 76 Church Court, Philipstoun, Linlithgow,
EH49 6RB
("the Tenant")**

**Mrs Shona Mann, residing at 6 Sowdley Green, Wheaton Aston, Stafford, ST19
9QB
("the Landlord")**

Surveyor: Greig Adams BSc (Hons) FRICS C. Build E FCABE LETAPAEWE

Previous Inspection: The subject property was inspected on 9th December 2016 by a full Committee of the First-tier Tribunal for Scotland (Housing and Property Chamber) and as a result, a Repairing Standard Enforcement Order was served.



Access: My inspection was undertaken on 6th April at 10am. The external front elevation and gable elevation were inspected from ground level whilst the Ground Floor Living Room and First Floor Front Bedroom were visually inspected internally whilst standing at floor level.

My inspection was accompanied by the Tenant, who was present within the property throughout my inspection. The Landlord was not present.

Purpose of Re-inspection: The purpose of the re-inspection was to investigate whether work required under the Repairing Standard Enforcement Order has been completed.

Works required under the Repairing Standard Enforcement Order (RSEO): The RSEO required the Landlord to:

- (a) Repair or replace the render to each of the external walls of the property to make the property wind and watertight.
- (b) To investigate and eliminate water ingress around the windows on the ground and first floors to the front of the property and ensure that every window in the property has a watertight seal.
- (c) When the property is wind and watertight, and the interior walls have dried out, to remove the damp staining from interior walls of the living room and first floor front bedroom and to redecorate the living room and front bedroom when the remedial works are completed.

The tribunal ordered that the works specified in the Order must be carried out and completed within the period of 8 weeks from the date of service of this Notice (5th January 2017).

Taking each matter individually, the re-inspection found:

- (a) Rendering works have not been completed and the property is not wind and watertight. Scaffolding remained to the Front Elevation and provision of a new dry dash render had been provided to the front elevation with the exception of ingoes/jambs of windows/main entrance door which remained incomplete whilst sealant works were also outstanding over the Front Elevation. There was no evidence of any works having been undertaken to the Gable Elevation.
- (b) Evidence of water ingress around the front windows remains and remedial works remain outstanding. Utilising a thermal imaging moisture meter, moisture profiling of the front walls within the Ground Floor Living Room and First Floor Front Bedroom exhibited high moisture readings below the window cill areas whilst a further isolated area of high readings were recorded within the Bedroom to the gable wall centrally above the bed. Externally, sealant works and rendering to ingoes/jambs remains outstanding and an effective and watertight seal has not been provided.



- (c) No internal remediation works have been progressed whilst the property has not been repaired to be considered wind and watertight nor have interior walls been dried out.

In conclusion and on the basis of the re-inspection, the remedial works required in terms of the Order have not been completed.

G Adams

Greig Adams BSc (Hons) FRICS C. Build E FCABE LETAPAEWE
Surveyor Member
First-tier Tribunal for Scotland (Housing and Property Chamber)



Appendix A – Re-Inspection Photographs



1. Front Elevation



2 Gable Elevation



3. Close view of Front Elevation ingoe/jamb of Living Room window – render incomplete.



4. Close view of incomplete rendered jamb (right hand side) adjoining timber panelling over Front Elevation.



5. Further view of incomplete rendered jamb adjoining timber panelling (left hand side)



6. View of incomplete rendered jamb at First Floor Bedroom window.



7. Damp staining remains within Living Room below window.



8. Damp staining remains within Living Room below window.



9. View of incomplete rendered jamb.



10. First Floor Bedroom – minor damp staining remains.



11. Close view of minor staining below window.