

Housing and Property Chamber

First-tier Tribunal for Scotland



REPAIRING STANDARD ENFORCEMENT ORDER

Chamber Reference number: FTC/HPC/RT/22/0840

Parties:

1. Dumfries and Galloway Council per its employee Mr. Robert Rome, HMO Licensing and Landlord Registration Officer, Strategic Housing, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD as third-party applicant in terms of Section 22(1A) of the Act ("the Third -party Applicant") ;
2. Mr. James Donnelly residing at 4, Knowe Cottages, Kirkconnel, Sanquhar, DG4 6NN ("the Tenant")
3. Inkersall Investments Limited, Challenge House, 46, Nottingham Road, Mansfield, Nottinghamshire, NG18 1BL ("the Landlord"), together referred to as "the Parties".

Property: 4, Knowe Cottages, Kirkconnel, Sanquhar, DG4 6NN being part of the subjects registered under title sheet number DMF22527

Notice to Landlord

Inkersall Investments Limited, Challenge House, 46, Nottingham Road, Mansfield, Nottinghamshire, NG18 1BL

Whereas in terms of its decision dated 21 June 2022, the First-tier Tribunal for Scotland determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 in respect of Sections 13 (1) (a), 13 (1) (b) and 13(1) (h) of the Act the First-tier Tribunal now requires the Landlords to carry out the following works or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good.

The Landlord must on or before **21 September 2022** carry out all of the following:-

1. Instruct a damp proofing and timber specialist registered with the Property Care Association or similar trade organisation to carry out an inspection of the Property with a view to identifying the extent and causes of the dampness in the ground floor bedroom, entrance hall and living room of the Property, provide a fully documented report on their findings and recommend works to remedy the dampness and rectify any damage caused by the dampness ("the Dampness Report"). The instruction to the specialist should include a copy of this RESO, the said Decision of Tribunal and the Tribunal's Inspection Report;

2. Submit the Dampness Report to the Tribunal, the Third-party Applicant and the Tenant;
3. Instruct a contractor or contractors capable of providing a 10- year guarantee to carry out all works recommended by the Dampness Report;
4. Instruct a drainage engineer registered with the National Association of Drainage Contractors or similar trade organisation to carry out a full inspection of the garden grassland area to the front of the Property with a view to identifying the extent and causes of the excess water in that area, provide a fully documented report on their findings and recommend works to remedy the drainage issues ("the Drainage Report"). The instruction to the specialist should include a copy of this RESO, the said Decision of Tribunal and the Tribunal's Inspection Report;
5. Submit the Drainage Report to the Tribunal, the Third-party Applicant and the Tenant;
6. Instruct a contractor or contractors capable of providing a 10- year guarantee to carry out all works recommended by the Drainage Report;
7. Make good the décor damaged as a result of the water ingress to the front bedroom ceiling;
8. Replace the broken roof slates;
9. Replace the downpipe and guttering to the rear of the Property to ensure that these are in proper working order;
10. Replace the open fire hearth in the living room to ensure that the hearth is fully tiled with heat resistant tiling and that the fire can be used safely;
11. Repair or replace the back panel to the right side lower cabinet and re-instate the shelf to the adjoining left side cabinet in the kitchen.
12. Repair the extractor fan in the kitchen to ensure that it is in proper working order, is not excessively noisy and does not allow an excessive amount of wind to enter the Property. In the event that a repair is not possible, replace the fan with an electric fan to be fitted by a suitably qualified and registered SELECT, NAPIT or NICEIC electrical contractor and
13. Make good all damage as a result of these works.

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.

Further, in terms of Section 28(1) of the Housing (Scotland) Act 2006, a landlord who, without reasonable excuse, fails to comply with a Repairing Standard Enforcement Order commits an offence liable on summary conviction to a fine not exceeding Level 3 of the standard scale, and in terms of Section 28(5) of that Act, also commits an offence if he or she enters into a tenancy or occupancy agreement in relation to a house at any time during which a Repairing Standard Enforcement Order has effect in relation to the house.

In Witness Whereof these presents printed on this and the preceding pages are subscribed by Karen Moore, Chairperson of the tribunal, at Glasgow on 21 June 2022 before this witness, Norman William Moore, solicitor, 11, Muirfield Business Centre, South Muirhead Road, Cumbernauld, G67 1AX