

Housing and Property Chamber First-tier Tribunal for Scotland



REPAIRING STANDARD ENFORCEMENT ORDER

Chamber Reference number: FTC/HPC/RT/22/2939

Parties:

1. Dumfries and Galloway Council per its employee Ms. Amanda Green, 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. Ms. Joanna Parker, residing at 2B, Dildawn Estate, Kelton, Castle Douglas, DG7 1SE ("the Tenant") and
3. Mr. William Moultrie, residing at Dildawn House, Kelton, Castle Douglas, DG7 1SE ("the Landlord"), together referred to as "the Parties".

Property: 2B, Dildawn Estate, Kelton, Castle Douglas, DG7 1SE being part and portion of the subjects registered in the Land Register of Scotland under title sheet number KRK9474.

Tribunal Members

K: Moore (Chairperson) and N Allan (Ordinary Member)

Notice to Landlord

Mr. William Moultrie, residing at Dildawn House, Kelton, Castle Douglas, DG7 1SE

Whereas in terms of its decision dated 23 November 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) (c) 13(1) (f) 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 28 February 2023 carry out all of the following:-

1. Instruct a damp proofing 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 hallway and bedroom, 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 guarantee or warranty to carry out all works recommended by the Dampness Report;
4. Repair or replace the broken sash window in the living room;
5. Repair or replace the front door of the Property, and, if necessary, its surrounds, to ensure that it is wind and watertight;
6. Instruct a suitably qualified SELECT, NAPIT or NICEIC electrician and/or Gas Safe registered heating engineer to repair or replace the heating and hot water system in the Property to ensure that the heating and hot water installation is safe, functional and in proper working order;
7. Instruct a suitably qualified contractor to carry out an inspection of the macerator sanitation system in the Property with a view to identifying the extent and causes of the blocked toilet bowl, provide a fully documented report on their findings and recommend works to remedy and rectify all defects in the system ("the Sanitation Report").
8. Submit the Sanitation Report to the Tribunal, the Third-party Applicant and the Tenant;
9. Instruct a contractor or contractors capable of providing a guarantee or warranty to carry out all works recommended by the Sanitation Report;
10. Instruct a SELECT, NAPIT or NICEIC electrician (i) to carry out a full inspection of the electrical installation throughout the Property, the purpose of which inspection is to ensure that the electrical installation in the Property and the Landlord's appliances therein are safe and fit for purpose (ii) to repair, replace or renew any parts which require to be renewed, replaced or repaired to ensure the installation is fully functioning and meets current regulatory standards and (iii) thereafter to issue a complete and compliant electrical installation condition report ("EICR") and/or an Electrical Installation Certificate in accordance with the Scottish Government statutory guidance on electrical installations and appliances in private rented property and exhibit the EICR to the Tribunal. This should include testing and certification of all electrical appliances provided by the Landlord;
11. Install an interlinked mains-powered smoke alarms or tamper proof long-life lithium battery alarms are installed in the living room of the Property and

12. Make good décor damaged 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 K: Moore, Chairperson of the tribunal, at Glasgow on 23 November 2022 before this witness, N: Wi Moore, solicitor,