

Housing and Property Chamber First-tier Tribunal for Scotland



Repairing Standard Enforcement Order

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

Housing (Scotland) Act 2006 Section 24

Chamber Ref: FTS/HPC/RT/19/3644

Re Property: 18 Brewery Street, Dumfries, DG1 2RP

Parties:

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD (“the Applicant”),

and

Mr Sharaz Rasul, 23 Callum Drive, Dumfries DG1 3EF (“the Respondent”) and

Gillespie, Gifford and Brown Solicitors, 133-135 Irish Street, Dumfries, DG1 2NT (“the Respondent’s Representative”)

Tribunal Members:

G McWilliams- Legal Member

M Links- Ordinary Member

The Order

1). Whereas in terms of their Decision dated 5th September 2021 The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) and in particular that the Landlord has failed to ensure that the Property is wind and watertight and in all other respects reasonably fit for human habitation; and

2) The Tribunal now requires the Respondent to carry out such works as are necessary for the purpose of ensuring that the House meets the Repairing Standard; an

3) The Tribunal orders that:-

The Respondent is to carry out such works as are required to ensure that the Property is wind and watertight and in all other respects reasonably fit for human habitation, all in terms of Section 13(1)(a) of the said Act. Specifically the Respondent has to

- i) repair the light at the close entrance; and
- ii) restructure the Property in such a way so as to ensure that there is natural light in the living room or, alternatively, that the living room is no longer used as such; and
- iii) instruct a timber and damp specialist to prepare a report in respect of dampness in the Property, including the dampness on the wall adjacent to the radiator in the living room, lodge the report with the Tribunal and carry out any/all remedial works identified in that report; and
- iv) repair the cooker/oven in the kitchen; and
- v) install a heat detector and CO monitor in the kitchen, which comply with current health and safety guidelines ; and
- vi) install a smoke detector in the living room, which complies with current health and safety guidelines.

4) The Tribunal orders that the works specified in this Order must be carried out and completed by 31st December 2021.

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.

Please note that in terms of section 28(1) of the Act, a Landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A Landlord (and that includes any Landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents, typewritten on this and the preceding page, are executed by Gerry McWilliams, Solicitor, Legal Member of the Tribunal, at Glasgow on 6th September 2021, before this witness:-

G McWilliams