

Housing and Property Chamber First-tier Tribunal for Scotland



REPAIRING STANDARD ENFORCEMENT ORDER

Chamber Reference number: FTS/HPC/RP/18/1436

Parties: Ms Emma Kelly now formerly residing at 6E Macewan Place, Kilmarnock, KA3 7ER ("the Tenant") and represented by Miss Claire Strong, Shelter, 116 Osborne Street, Glasgow G1 5QH and

Stewart Hale residing some time at 12 Ash Tree Avenue Manchester and Mrs Janet Hale ("the Landlords"), per their agents Mackenzie Way Estate and Letting Agents 36 Hamilton Street, Saltcoats KA21 5DS ("the Landlords' Agents")

Property: 6E Macewan Place, Kilmarnock, KA3 7ER registered in the Land Register of Scotland under Title Number AYR75216 ("the Property")

Tribunal Members

Karen Moore (Chairperson)

Carol Jones (Ordinary Member)

Notice to Landlords

Stewart Hale residing some time at 12 Ash Tree Avenue Manchester and Mrs Janet Hale per their agents Mackenzie Way Estate and Letting Agents 36 Hamilton Street, Saltcoats KA21 5DS ("the Landlords")

Whereas in terms of its decision dated 18 September 2018, the First-tier Tribunal for Scotland determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and, in particular, that the Landlords have failed to comply in respect of Sections 13 (1) (a), 13(1) (c) and 13(1) (d), of the Act and have failed to ensure that the Property is wind and watertight and in all other respects reasonably fit for human habitation, that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order and that any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, 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 Landlords must on or before 30 November 2018:-

1. Instruct a Gas Safe registered plumbing and heating engineer (i) to carry out a full inspection of the gas installations in the Property including the boiler, the hot water supply and the radiators in the Property (ii) to carry out such works as are necessary to ensure that the gas installations are in proper working order and that the hot water supply is sufficient and suitable for the Property, including if necessary, the replacement of the boiler and the hot water tank (iii) replace the living room radiator to ensure that the heating installation in the Property is safe, functional and in proper working order and (iv) thereafter provide a CP 12 Gas Safety Certificate to the tribunal or if the boiler is replaced, all necessary commissioning documents and certificate;
2. Instruct a suitably qualified and registered SELECT or NICEIC electrical contractor (i) to carry out portable appliance testing on the appliances supplied by the Landlords, namely the washing machine and the cooker and (ii) repair or, if necessary, replace these appliances to ensure that they are in proper working order;
3. Instruct a suitably qualified contractor to investigate the cause of any ongoing leaks in the kitchen and repair or replace the floor boards in the kitchen and thereafter replace the floor covering in the kitchen to ensure that the floor and flooring are in a reasonable condition, are stable underfoot, are free from trip hazards and are free from dampness and infestation;
4. Repair or replace the living room window to ensure that the tilt and turn mechanism is fully operational and that the window is properly sealed;
5. Instruct a suitably qualified Pest Control Specialist company to carry out a full inspection of the Property and to carry out such works as are necessary to ensure the eradication of all insects and pests within the Property, and, thereafter, provide a certificate or report to this effect to the tribunal and
6. Make good all 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 two preceding pages are subscribed by Karen Moore, Chairperson of the tribunal, at Glasgow on 18 September 2018 before this witness, Norman William Moore, solicitor, Dunnswood House, 10 Dunnswood Road, Cumbernauld.

M Moore

Witness

K Moore