

Housing and Property Chamber First-tier Tribunal for Scotland



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

Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006 Section 24

Chamber Ref: FTS/HPC/RT/19/3404

Gas House, Balgray, Lockerbie, DG11 2JT

("the property")

The Parties:-

Dumfries and Galloway Council, Community & Customer Services, Strategic Housing Services, Municipal Chambers, Buccleuch Street, Dumfries DG1 2AD

("the third party applicant")

Michael Jardine-Paterson, Balgray Estate, Balgray House, Lockerbie, Dumfriesshire, DG11 2JT

("the respondent")

Savills, 28 Castle Street, Dumfries, DG1 1DG

("the respondent's agents")

Tribunal Members:

Adrian Stalker (Chairman) and Andrew McFarlane (Ordinary Member)

Whereas in terms of their decision dated 6 February 2020, the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the respondent had 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 respondent had failed to ensure at all times during the tenancy, that:-

- a) the house is wind and water tight and in all other respects reasonably fit for human habitation (section 13(1)(a));
- b) the installations in the house 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 (section 13(1)(c));

- c) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order (section 13(1)(d)); and
- d) the house meets the tolerable standard (section 13(1)(h)).

the Tribunal now requires the respondent to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular, the Tribunal requires the respondent carry out the following work:

- 1) To instruct suitably qualified tradespersons to repair the porch at the property, ensuring that it is wind and watertight, or **alternatively**, instruct suitably qualified tradespersons to remove the existing porch and replace it with another porch, which is wind and watertight.
- 2) To instruct suitably qualified tradespersons to repair the current underfloor heating such that it is in a reasonable state of repair and in proper working order, or **alternatively**, to instruct suitably qualified tradespersons to install another system for space heating which is in a reasonable state of repair and in proper working order.
- 3) To instruct a suitably qualified tradesperson to repair or replace the handle on French door in the living room.
- 4) To instruct suitably qualified tradespersons to take such steps, by cleaning, repairing, replacing or otherwise, as are necessary to reinstate an adequate piped supply of wholesome water to the property.

The Tribunal orders that the works specified in this Order must be carried out and completed within the period of **twelve weeks** from the date of service of this Notice.

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.

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 type written on this and the preceding page(s) are executed by Adrian Stalker, advocate, Advocates Library, Parliament House, Edinburgh, chairperson of the Tribunal at Edinburgh on 6 February 2020, before this witness:-

D Dawson

A Stalker

witness

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DEBBIE DAWSON name in full
PARLIAMENT HOUSE Address
EDINBURGH