

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Statement of Decision: Housing (Scotland) Act 2006 Section 25(1)**

**Chamber Ref: FTS/HPC/RP/21/0825**

**Title Number: GLA170509**

**Flat 2/2 18 Melrose Gardens, Glasgow, G20 6RA (“the Property”)**

**Parties:**

**Emma McCormick, Christopher McKechnie, Flat 2/2 18 Melrose Gardens, Glasgow, G20 6RA (“the Tenants”)**

**Robert Dougall, Paula Rogers, 25 Penrith Avenue, Giffnock, Glasgow G46 6LU (“the Landlords”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

**Carol Jones (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having made such enquiries as it saw fit for the purposes of determining whether the Repairing Standard Enforcement Order (“RSEO”) relative to the property dated 27 September 2021 should be varied in terms of Section 25(1) of the Act, determined that the RSEO should be varied by extending the time for completion of the work until 28 February 2022**

**Background**

1. On 5 April 2021, the Tenants lodged an application with the Tribunal in terms of Section 22 of the Housing (Scotland) Act 2006. The Tenants stated that the Landlords had failed to meet the repairing standard in relation to the property.

2. Following an inspection of the property on 2 September 2021 and a hearing by telephone conference call on 9 September 2021, the Tribunal issued an RSEO in relation to the property dated 27 September 2021. In terms of the RSEO the Landlord is required (i) To instruct a suitably qualified roofing contractor to investigate the cause of water ingress and carry out any recommended remedial work to prevent any further water ingress, and (ii) To instruct a suitably qualified window contractor to inspect the living room and bedroom windows and carry out any necessary repairs to ensure that the property is wind and watertight and that the windows are in proper working order; or replace the windows. The Order requires the work to be completed within three months of the Order being issued to the parties.
3. On the 28 October 2021, the Landlord submitted a request for variation of the RSEO. He provided an update on Part 1 of the order and stated that work had been carried out to the roof, on the instructions of the Property Factor, which had addressed the water ingress at the property. Regarding Part 2 of the RSEO, he stated that he had decided to replace the windows. He provided copies of emails between the letting agent and a window contractor which appear to confirm that the contractor has been instructed to replace the windows and that this is likely to take 10 to 12 weeks, plus an additional 2 weeks to cover the Christmas holiday period. The Landlord advised that the work should be completed by early February 2022. The Tenant was invited to lodge written representations regarding the Landlord's request but did not do so.

### **Reasons for decision**

4. The Tribunal considered the Landlord's request and the information provided in connection with both parts of the Order.
5. It is of concern that the Landlord did not instruct a contractor to replace the windows until 25 October 2021, some four weeks after the RSEO was issued. At the hearing he advised the Tribunal that an estimate for replacement had already been obtained. However, the Landlord has provided an update on Part 1 of the Order which appears to confirm that work has been carried out to the roof to address the water ingress. Furthermore, it is clear from the copy correspondence with the contractor, that the replacement of the windows is unlikely to be completed before the beginning of February 2022. The Tribunal also notes that the Tenants have not provided any information which contradicts the Landlord's submissions or stated that they oppose the request.

6. In the circumstances, the Tribunal is satisfied that a variation of the RSEO should be granted by extending the time for completion of the work until 28 February 2022.

### **Decision**

7. The Tribunal determined that the RSEO should be varied by extending the time for completion of the work until 28 February 2022.
8. The decision of the Tribunal is unanimous.

### **Right of Appeal.**

**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.**

In terms of Section 63 of the Act, 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.

# J Bonnar

Josephine Bonnar, Legal Member

16 November 2021