

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement Of Decision to Vary Repairing Standard Enforcement Order: Housing (Scotland) Act 2006, Section 25(1)(a)

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)

Decision

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’), decided to vary the RSEO dated 6 February 2020 with effect from the date of service of this Notice, in that the period allowed for the completion of the work required by the order is extended to 9 October 2020.

Reasons for Decision

1. Reference is made to the to the Tribunal's previous decision in this case, and to the RSEO made on 6 February 2020. The period of 12 weeks allowed by Tribunal for completion of the works specified in the RSEO is due to expire in early May 2020.

2. On 28 March 2020, the Tribunal received an email from Mr Matthew Law, of the respondent's agents. This indicates that works to replace the porch, and to install a new heating system (being works which, if carried out, would address points 1 and 2 in the RSEO) were scheduled to have been completed by the end of April. However, due to the restrictions currently in place, as a result of the Coronavirus Covid-19 pandemic, it would not be possible to do the work. In particular, the respondent's agents understand that both of the occupants of the property have underlying health conditions, and therefore access by the contractors may not be possible for some time. In the circumstances, an extension to the period allowed for completion was requested.
3. The Tribunal sought clarification of the position of the third party applicant. By email dated 16 April, Mr Rome of Dumfries and Galloway Council accepted that an extension was necessary, and suggested a period of 4-6 months. By another email, dated 17 April, Mr Law sought an extension of 6 months.
4. In the circumstances, the Tribunal has decided to grant an extension to 9 October 2020, just over five months from the original expiry date. Should the Covid-19 restrictions continue in operation, such as to make it impractical to comply with that deadline, another extension may be sought.
5. Section 25(3) of the 2006 Act does not apply in this case.
6. The Tribunal proceeded to vary the RSEO under section 25(1)(a), which Variation is referred to for its terms.
7. The decision of the Tribunal was unanimous.
8. **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.**
9. 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.

A Stalker

Signed

Date 21 April 2020

Chairman