

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**DECISION WITH STATEMENT OF REASONS FOR VARIATION OF RSEO:
Housing (Scotland) Act 2006, Section 25**

Chamber Ref: FTS/HPC/RP/19/2899

29/2 Rannoch Place, Edinburgh, EH4 7HH (Title number MID92623) (“The House”)

The Parties:-

**Mrs Pauline Winafred Gillies, 1 Corstorphine House Terrace, Edinburgh, EH12 7AE, and 132 St John’s Road Edinburgh, EH12 8AX, formerly residing at 19 Gordon Road, Edinburgh
 (“the Landlord”)**

**Gilson Gray Lettings, Gilson Gray LLP, 29 Rutland Square, Edinburgh, EH1 2BW
 (“the Landlord’s Representative”)**

**Mr Pablo Cabrera Garcia, 29/2 Rannoch Place, Edinburgh, EH4 7HH
 (“the Tenant”)**

Tribunal members

Ms Susanne L. M. Tanner Q.C., Legal Member and Chair

Mr Andrew Taylor (Ordinary Member)

DECISION

1. The tribunal, having taken account of the parties’ written submissions, varies the Repairing Standard Enforcement Order (RSEO) dated 9 March 2020, in terms of section 25 of the 2006 Act, to the effect of extending the period of time allowed for the works specified therein to 30 April 2020.
2. The decision of the tribunal was unanimous.

Reasons

3. Reference is made to the decision of the tribunal dated 9 March 2020 and the RSEO of the same date, ordering that the works specified therein had to be completed within 6 weeks days of the date of service of the notice. The RSEO was served on 11 March 2020. The date for compliance with the RSEO was 22 April 2020.
4. On 12 April 2020, the Tenant submitted an email stating in which he stated that he had received no communication from the Landlord or the Landlord's Representative in respect of the works specified in the RSEO dated 9 March 2020. A copy of his email was sent to the Landlord's Representative. The tribunal requested an email address for the Landlord from the Landlord's Representative as Covid-19 restrictions meant that a hard copy could not be sent to the Landlord.
5. On 17 April 2020, the Tribunal issued Directions (no. 3) dated 17 April 2020 to the Landlord's Representative. Covid-19 restrictions meant that a hard copy could not be sent to the Landlord. Reference is made to the full terms of the Directions. Amongst other things the Landlord's Representative was required to respond to the Tenant's submissions of 12 April 2020; and to confirm whether they wished to seek variation of the RSEO in terms of Section 25 of the Housing (Scotland) Act 2006.
6. On 22 April 2020, Mr Paolo of the Landlord's Representative submitted a response to the Directions (no. 3). He stated that a gas engineer had attended at the House on 30 March 2020 and had been permitted access by the Tenant; a boiler had been ordered and the gas engineer had advised that he required access on 28 April 2020 for installation; it was anticipated that this would resolve the issue with the boiler; and that a text message and email had been sent to the Tenant requesting access on 28 April 2020. There was no formal request for variation of the RSEO to extend the period for compliance. A copy of the Landlord's Representative's email was sent to the Tenant.
7. On 22 April 2020, the Tenant sent an email responding to the Landlord's Representative's email, stating: that he would provide access to the gas engineer on 28 April 2020; requesting the approximate timing for the visit; and requesting an update from the Landlord's Representative relative to order 3 on the RSEO, in respect of works required in the kitchen.
8. Section 25 of the Housing (Scotland) Act 2006 provides:

“(1) Where the First-tier Tribunal has made a repairing standard enforcement

order, it may, at any time—

(a) vary the order in such manner as it considers reasonable, or

(b) where it considers that the work required by the order is no longer necessary, revoke it.

(2) Where subsection (3) applies, the First-tier Tribunal must vary the repairing standard enforcement order in question—

(a) so as to extend, or further extend, the period within which the work required by the order must be completed, and

(b) in such other manner as it thinks fit.

(3) This subsection applies where—

(a) the First-tier Tribunal considers, on the submission of the landlord or otherwise, that the work required by a repairing standard enforcement order has not been, or will not be, completed during the period within which the order requires the work to be completed, and

(b) the First-tier Tribunal —

(i) considers that satisfactory progress has been made in carrying out the work required, or

(ii) has received a written undertaking from the landlord stating that the work required will be completed by a later date which the First-tier Tribunal consider satisfactory.

(4) References in this Act (including this section) to a repairing standard enforcement order or to work required by such an order are, where the order has been varied under this section, to be treated as references to the order as so varied or, as the case may be, to work required by the order as so varied.”;

9. In light of the information submitted by the Landlord’s Representative, the tribunal decided in terms of Section 25(1)(a) of the 2006 Act to vary the RSEO to allow the time period for works to be extended to 30 April 2020. The tribunal considered that it was reasonable to do so given that the boiler installation is due to take place on 28 April 2020, which is outwith the specified time period in the RSEO. Assuming that the gas engineer is Gas Safe registered, he/she could be instructed to carry out a Gas Safety inspection at the time of installation and produce the required certification, as required in order 2. The tribunal has no information from the Landlord’s Representative about whether it is intended to carry out the work specified in order 3 on 28 April 2020. The effect of the variation is that all works in the RSEO, in orders 1 to 3, require to be completed by 30 April 2020.

Right of Appeal

- 10. A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

Effect of section 63

11. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

S Tanner

Signed

Susanne L M Tanner, Queen's Counsel, Legal Member and Chair of the tribunal

Date 24 April 2020