

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/21/0210

**1F4, 53 Bread Street, Edinburgh, EH3 9AH (Title number MID111224)
("the Property")**

The Parties:-

**Mr Niel Jorgensen, 132 St Stephen Street, Edinburgh, EH3 5AA
("the Respondent")**

**Matrix Property Management Limited, 132 St Stephen Street, Edinburgh, EH3
5AA
("the Respondent's Representative")**

Tribunal members

**Ms. Susanne L. M. Tanner Q.C., Legal Member and Chair
Mr. Nick Allan, Ordinary Member**

DECISION

1. The tribunal, having taken account of the Respondent's written submissions and supporting evidence, varies the Repairing Standard Enforcement Order (RSEO) dated 8 September 2021, in terms of section 25 of the 2006 Act, to the effect of varying the RSEO to extend the period of time allowed for the works specified in the orders in the RSEO to 31 January 2022.
2. The tribunal decided to postpone the re-inspection scheduled for 26 November 2021 at 1130h, to a date to be afterwards fixed and notified to parties.
3. The decision of the tribunal was unanimous.

Reasons

4. Reference is made to the decision of the tribunal dated 8 September 2021 and the RSEO of the same date, ordering that the works specified therein had to be completed within 8 weeks of the date of service of the notice. The date for compliance with the RSEO has passed.
5. Since the RSEO was made, the former tenant Applicant has moved out of the Property and is no longer a party to proceedings. On 2 November 2021 the tribunal decided to continue its consideration of the Application, in terms of Schedule 2, para 7 of the Housing (Scotland) Act 2006.
6. In response to Directions and other correspondence from the tribunal, the Respondent has responded to provide information in relation to progress of the works specified in the RSEO. The Respondent has admitted that the required works have not been carried out despite the period for compliance having passed. No inspection for quotation purposes was carried out during the period for compliance with the RSEO. The Respondent arranged for a contractor to attend on 9 November 2021 for the purposes of inspecting the bathroom window and providing a quotation. The Respondent has now obtained and provided a quotation from a contractor dated 15 November 2021, for replacement of the bathroom window in the Property. However, the company from which he has obtained the quotation is unable to do the works before Christmas 2021. The Respondent has stated that he is seeking alternatives but no other supporting evidence has been provided in that regard. He has also advised that the Property is empty and will not be re-let until the works have been completed. The Respondent has requested a postponement of the re-inspection which is due to take place on 26 November 2021. The Respondent was asked to confirm whether he was seeking a variation of the RSEO and, if so, how long he requires the time period to be varied by in order for the works to be completed but he has not provided a response.
7. 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.”;*

8. In light of the information submitted by the Respondent the tribunal decided in terms of Section 25(1)(a) of the 2006 Act to vary the RSEO in the following respect. The period for compliance with all orders in the RSEO has been extended to 31 January 2022, to allow the Respondent to instruct the works required by the RSEO and for them to be completed.
9. The tribunal decided to postpone the re-inspection which is due to take place on Friday 26 November 2021, to a date to be afterwards fixed and notified to parties.

Right of Appeal

- 10. A 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

Ms. Susanne L M Tanner, Queen’s Counsel, Legal Member and Chair of the tribunal

Date 24 November 2021