

Housing and Property Chamber
First-tier Tribunal for Scotland



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

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

Chamber Ref: PRHP/RT/16/0326

8 High Street, Lockerbie, DG11 2AA

All and Whole the subjects described in a Lease dated 31st March, 8th April and 1st May 1786, by Dame Grace Douglas Johnstone of Lockerbie relict of Sir William Douglas of Kelhead, Bart., with consent of Trust Managers of her said Estate, appointed by the deceased William Johnstone of Lockerbie to John Marshall of a Piece of Land extending in front to 50 feet, at the Townhead of Lockerbie bounded on the West by the Road or Street of Lockerbie, Parish of Dryfesdale, an extract of which is registered in the Division of the General Register applicable to the County of Dumfries on 30th May 1870 but only in respect of the house at 8 High Street, Lockerbie.

("The House")

**The Parties:-
Dumfries and Galloway Council,
Council Offices,
Buccleuch Street,
Dumfries,
DG1 2AD**

("the Third Party Applicant")

**Ms Gillian Glennie,
Sometime residing at the House("the Tenant)**

**Mr Allan Airley, Mr John Graham, George Trudt and Mr Robert McMillan, as
Trustees of the Mid Annandale Comrades Club ,
2-6 High Street,
Lockerbie,
DG11 2AA**

("the Landlord")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determines that the Repairing Standard Enforcement Order relative to the Property dated 21st December 2016 and subsequently varied should be **REVOKED**

Background

The members of The First-tier Tribunal for Scotland (Housing and Property Chamber) dealing with the application are Martin J. McAllister, solicitor, legal member and Kingsley Bruce, surveyor, ordinary member.

A repairing standard enforcement order (RSEO) dated 21st December 2016 had been made in the following terms:

(ONE) The Landlord is to engage a competent damp and timber specialist to establish the cause and extent of dampness in the kitchen, undertake such works as necessary and reinstate where required including decoration. (Section 13 (1) (a) of the Housing (Scotland) Act 2006 Act as amended (the 2006 Act)).

(TWO) The Landlord is to repair or renew joinery and glazing as required in the rear porch. (Section 13 (1) (b) of the 2006 Act).

(THREE) The Landlord is to repair or renew the rear outside light to ensure that there is no cable running between the House and the adjoining building or, if it is, that it is adequately and safely supported and complies with appropriate standards. (Section 13 (1) (c) of the 2006 Act).

(FOUR) The Landlord requires to ensure that heat and smoke alarms comply with the requirements of the revised Domestic Technical Handbook issued by Scottish Government's Building Standards Division (Technical Handbooks 2013:- Domestic-Fire) (Section 13 (1) (f) of the Act).

(FIVE) The Landlord requires to install a functioning carbon monoxide detector. (Section 13 (1) (g) of the Act).

(SIX) The Landlord is to produce an electrical installation condition report prepared by a suitably competent person confirming that the electrical system within the Property is in a safe and efficient condition. (Section 13 (1) (c) of the 2006 Act).

In view of the nature of the failure to meet the Repairing Standard as defined in the Housing (Scotland) Act 2006, the tribunal that the repairing standard enforcement order requires to be complied with by the date twelve weeks from service of the repairing standard enforcement order upon the Landlord.

1. On 3rd April 2017 the property was reinspected by the ordinary member who produced a Report dated 10th April 2017.
2. The Report disclosed that no work had been done.
3. The RSEO was varied on two occasions to allow the Landlord more time to carry out the work required by the RSEO.
4. The Landlord had previously indicated that, as a registered club, it had no funds to do the necessary works and that any works would require to be done by a new owner.
5. A reinspection of the Property was to be arranged for a date after 31st January 2018 but the Landlord made representations and stated that no repairs had been done. The Landlord referred to earlier representations which stated that, as a club, it had no funds to carry out the works and that the Property is being marketed for sale.
6. Solicitors acting for the Landlord wrote to the Tribunal on 26th February 2018. They sent a copy of a letter dated 23rd February 2018 from solicitors acting for prospective purchasers of the house. This letter indicated that Mr and Mrs Mackay wanted to purchase the House and had secured a residential mortgage rather than a buy to let mortgage to assist in the purchase. The letter also stated that the purchasers intended to occupy the House as their home, that they are currently living in rented accommodation and that they intended to do significant work to the House prior to occupying it.
7. The tribunal was provided with a copy of the relevant Offer to purchase the house and also a copy of the Home Report. The solicitors acting for Mr and Mrs Mackay indicated that their clients intended to do works to rectify faults noted in the Home Report. They advised that the prospective purchasers had already obtained quotations to deal with the dampness issues and that it was their intention to remain in rented accommodation when the works were being done.
8. The tribunal considered matters and whether or not it would be appropriate for it to revoke the RSEO.. On balance and taking into account all matters regarding the status of the Landlord, the fact that the tenancy has been lawfully terminated, that the property is to be sold to purchasers who intend to live in the House after it has been improved and not put it on the rental market, the tribunal determined that it should revoke the RSEO. The tribunal has the power to revoke the RSEO in terms of Section 25 (1) (b) where it considers that the work required by the order is no longer necessary. In the particular circumstances of this case the tribunal considered that to be applicable.

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.

Martin J. McAllister, solicitor,
Legal member of tribunal.
22nd March 2018