

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Notice of Decision to Vary a Repairing Standard Enforcement Order (RSEO):
Housing (Scotland) Act 2006 Section 25**

Chamber Ref: FTS/HPC/RT/17/12

Title Number: ANG48154

**33 Woodlands Gardens, Abercrombie Street, Broughty Ferry, Dundee, DD5
2ST ("The Property")**

The Parties:-

**DUNDEE CITY COUNCIL, 3 City Square, Dundee, DD1 3BA (represented by Mr
Lindsay Watson of Dundee City Council) ("the Third Party Applicant")**

**AMANDA FLEMING residing at 33 Woodlands Gardens, Abercrombie Street,
Broughty Ferry, Dundee, DD4 2ST ("the Tenant")**

**KELVIN RIVER PROPERTY ESTATES LIMITED a company incorporated under
the Companies Acts (Registered Number SC496000) and having its Registered
Office at 6th Floor, Gordon Chambers, 90 Mitchell Street, Glasgow, G1 3NQ
(represented by their agent Ms Hazel Young of Rockford Properties) ("the
Landlords")**

Whereas in terms of their Notice to Kelvin River Property Estates Limited ("the Landlords") dated 17th May 2017 the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the **Repairing Standard Enforcement Order** ("RSEO") relative to the Property dated 7 March 2017 is hereby varied with effect from the date of service of this notice in the following respect:-

- (a) The period allowed for completion of the works required by the RSEO is extended for a period of two months from the date of service of this notice;

Sub-section 25(3) of the Housing (Scotland) Act 2006 does not apply in this case;

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.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 17 May 2017 before this witness:-

C Robertson

____ witness

E Miller

Chairman

Claire Robertson
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ

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: FTS/HPC/RT/17/12

33 Woodlands Gardens, Abercrombie Street, Broughty Ferry, Dundee, DD5 2ST ("The Property")

The Parties:-

DUNDEE CITY COUNCIL, 3 City Square, Dundee, DD1 3BA (represented by Mr Lindsay Watson of the Private Sector Unit, Dundee City Council) ("the Third Party Applicant")

AMANDA FLEMING residing at 33 Woodlands Gardens, Abercrombie Street, Broughty Ferry, Dundee, DD4 2ST ("the Tenant")

KELVIN RIVER PROPERTY ESTATES LIMITED a company incorporated under the Companies Acts (Registered Number SC496000) and having its Registered Office at 6th Floor, Gordon Chambers, 90 Mitchell Street, Glasgow, G1 3NQ (represented by their agent Ms Hazel Young of Rockford Properties) ("the Landlords")

Notice of Decision to vary a Repairing Standard Enforcement Order ("RSEO")

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 Landlords had complied with the RSEO in relation to the Property determined that the Landlords should be given an extension of 2 months to the period allowed for completion of the works required in terms of Section 25(1) of the Housing (Scotland) Act 2006 ("the Act")

Background

1. Reference was made to the decision of the Tribunal dated 7 March 2017 which determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Act and the Landlords had failed to ensure that the Property met the repairing standard. The works required by the RSEO were:-
 - (a) to replace the oven within the Property;

- (b) to provide a working tumble dryer to the Tenant (unless the Tenant confirms in writing that she does not so require a tumble dryer)
- (c) to replace the lounge window and to carry out works of repair or replacement to the remaining windows within the Property to bring them up to the repairing standard
- (d) to replace the kitchen units, worktops, drawers and cupboards in the kitchen.

The RSEO gave the Landlords a period of 6 weeks from the date of service of the RSEO to carry out the works.

2. In due course a reinspection of the Property was arranged and took place on 5 May 2017. The reinspection was carried out by Mr Harry Maclean of the Tribunal. The Tenant was present and gave access. The Landlords' agent was also present. Copies of the photographs taken during the reinspection are annexed hereto for information.
3. It was noted that the windows at the Property had now been replaced and were satisfactory. The Tenant had also confirmed that the tumble dryer did not require to be replaced. This left outstanding the replacement of all the kitchen units together with the replacement of the oven within the kitchen.
4. Prior to the reinspection the Landlords had written into the Tribunal seeking a variation of the RSEO by way of an extension of a period of 6 months. The Landlords owned a number of other properties within the development and had decided to carry out a refurbishment of all of them. As a result the Landlords wished to go through a tendering process. The Landlords' application for a variation had been commented upon by the Tenant and the local authority. Whilst they were not adverse to a variation, they felt 6 months was excessive.
5. The Tribunal members (comprising Mr E K Miller, Chairman and Legal Member and Mr H Maclean, Ordinary Member) considered matters. The Landlords' agent had originally asked for a period of 4 weeks at the Hearing for the works to be carried out. The Tribunal had erred on the side of caution and had given 6 weeks. Whilst the Tribunal appreciated that as part of a larger programme, more time may be required in respect of tendering the works and organising them, nonetheless all that was now required was a basic kitchen replacement. This was not a particularly significant task. The Tribunal was of the view that it was not inappropriate to give an extension but that 6 months was excessive. The Tribunal was satisfied that a period of 2 months would be sufficient.

Decision

- 6. The decision of the Tribunal was to grant the Landlords a further period of 2 months from the date of service of this decision to comply with the RSEO.
- 7. The decision of the Tribunal was unanimous.

Right of Appeal

- 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.

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

Effect of section 63

- 9. 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.

Signed **E Miller**

Date 17/5/2017

Chairperson

This is the Schedule of Photographs referred to in the foregoing decision of the Tribunal
dated 17th May 2017 in respect of Woodland Gardens Abercrombie Street, Ander

E Miller

CHAIRMAN



Kitchen Internal – May 2017 new window



Lounge window internal – May 2017 New window



Bedroom One external – May 2017 new window



Bedroom Two external – May 2017 new window



Lounge & Kitchen external – May 2017 new windows



Kitchen – May 2017 – NO CHANGE



Kitchen May 2017 – NO CHANGE