

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Variation of Repairing Standard Enforcement Order ("RSEO"): Housing (Scotland) Act 2006 Section 25

Chamber Ref: FTS/HPC/RP/17/0235

Title no: GLA168231

**31 Cessnock Road Millerston, Glasgow G33 6NH
("the Property")**

The Parties:-

**Miss Jane Haig, residing at 31 Cessnock Road Millerston, Glasgow G33 6NH
("the Tenant")**

**Mr Thomas Muirhead, executor of the late Raymond Muirhead, residing at
26 Rossie Crescent, Bishopbriggs, Glasgow G64 AP
("the Landlord")**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') having determined on 6 November 2017 that the **RSEO** relative to the Property served on 8 November 2017 should be varied, the said **RSEO is hereby varied** with effect from the date of service of this Notice in the following respects:-

The current date for compliance with the RSEO is 22 December 2017. For the reasons set out within the corresponding Decision of even date the period allowed for the completion of the work required by the order is extended by an additional 6 weeks from 22 December 2017.

The Landlord is reminded that it is an offence to re-let the Property whilst subject to the Repairing Standard Enforcement Order.

Subsection 25(3) of the Housing (Scotland) Act 2006 as amended does not apply in this case.

A landlord, tenant or third party applicant 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.

In terms of Section 63 of the Act, 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.

In witness whereof these presents type written on this and the one preceding page are executed by Richard George Mill, legal member of the Tribunal, at Edinburgh on 18 December 2017 in the presence of the undernoted witness:-

M J Murray witness **R Mill** ___ Legal Member

MARGARET JOHNSTONE MURRAY name in full

69-71 DALRY ROAD Address

EDINBURGH

EH11 2AA

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Section 24 (1) of the Housing (Scotland) Act 2006, as amended, and Section 25

Chamber Ref: FTS/HPC/RP/17/0235

Title no: GLA168231

31 Cessnock Road Millerston Glasgow G33 6NH ("The Property")

The Parties:-

Miss Jane Haig, residing at 31 Cessnock Road Millerston Glasgow G33 6NH ("the Tenant")

Mr Thomas Muirhead, executor of the late Raymond Muirhead, residing at 26 Rossie Crescent, Bishopbriggs, Glasgow G64 AP ("the Landlord")

Tribunal Members: Richard Mill (Legal Member) and Greig Adams (Ordinary Member)

Decision

The Property does not meet the Repairing Standard. The Landlord has not complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary.

Background

1. The Tribunal issued a Decision on 6 November 2017 requiring the Landlord to comply with the Repairing Standard Enforcement Order (RSEO) relative to the Property issued by the Tribunal on 6 November 2017. The RSEO required the Landlord to:-

"1. To install provision for the detection of fire or suspected fire in accordance with Scottish Government Regulations, and in particular to install -

- 1.1 One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.
- 1.2 One functioning smoke alarm in every circulation space, such as hallways and landings.

- 1.3 One heat alarm in every kitchen.
 - 1.4 All alarms should be hardwired and interlinked and
2. To install a carbon monoxide detector in accordance with Scottish Government Regulations.
3. To obtain and produce an up-to-date Gas Safety Certificate.
4. To instruct a suitably qualified tradesman to repair or replace the rubber seals of the double glazed window units so as to ensure that they are wind watertight and to overhaul the ironmongery to ensure that all handles can be operated efficiently to open, close and lock the windows.
5. To instruct a suitably tradesman to investigate the plumbing and external drainage system, to report and to instruct recommended work to ensure that all waste water from the Property drains into the mains system effectively.
6. To instruct a specialist report into the condensation and damp found within the kitchen, bedroom and boiler cupboard in the Property, and to instruct the recommendations contained therein in respect of the installation of both suitable ventilation and damp proof works.

The Tribunal orders that the works specified in this Order must be carried out and completed within the period of 6 weeks from the date of service of this Notice and evidenced to the Tribunal."

2. The RSEO was served on 8 November 2017 with a compliance date set for 22 December 2017.
3. By way of email dated 24 November 2017, the Landlord intimated that he (and relevant workmen instructed on his behalf) were having difficulty obtaining access to carry out the works required in the RSEO. Subsequently, by way of letter dated 5 December 2017, the representatives acting on behalf of the Tenant advised that she has now left the Property and no longer requires the works to be carried out. The Tribunal considered all of the circumstances. The Tribunal formerly determined that the Property does not meet the Repairing Standard. As a consequence a Repairing Standard Enforcement Order was made. The issues arising from the RSEO are material and require to be undertaken so as to ensure that any new tenant in the Property as a consequence of a fresh tenancy being created, can reside within the Property comfortably and safely. It is in the public interest to require the works to be undertaken.

4. In the circumstances the Tribunal finds it fair and just to extend the period allowed to the Landlord to complete the works required to the RSEO. The works will be extended by an additional 6 weeks beyond the 6 week period previously allowed for completion of the work.

Right of Appeal

5. 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.
6. 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.

In witness whereof these presents type written on this and the preceding page(s) are executed by Richard George Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the tribunal at Edinburgh on 18 December 2017 before this witness:-

M J Murray

Legal Member

Margaret Johnstone Murray Witness

MARGARET JOHNSTONE MURRAY Name

69-71 DALRY ROAD Address

EDINBURGH

EH11 2AA