

Housing and Property Chamber First-tier Tribunal for Scotland



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

(Hereinafter referred to as “the tribunal”)

Statement of decision of the Tribunal under Section 25 of the Housing (Scotland) Act 2006

Case Reference Number: FTS/HPC/RT/22/0450

Re: Eliock Grange, Mennock, Sanquhar DG4 6LD being part of the subjects described in Disposition in favour of James Blackwood Greenshields recorded GRS (Dumfries) 20 May 1976 (Search Sheet 19439) (“the house”)

The Parties:-

Dumfries and Galloway Council –HMO & Landlord Registration, Municipal Chambers, Buccleuch Street, Dumfries DG1 2AD (“the third-party applicant”)

Mr Kevin Greenwood-Jaine (“the tenant”)

Mr James Blackwood Greenshields, Goosehill, Sanquhar DG4 6LB (“the landlord”)

Tribunal Members:

Sarah O’Neill (Chairperson) and Donald Wooley (Ordinary (Surveyor) Member)

Repairing Standard Enforcement Order Against:

Mr James Blackwood Greenshields (the landlord)

Background

1. The tribunal issued a decision on 22 June 2022 requiring the landlord to comply with the Repairing Standard Enforcement Order (RSEO) relative to the property issued by the tribunal on the same date.
2. The RSEO required the landlord to:

1. a) Obtain a detailed report from a timber and damp specialist surveyor which is registered with the Property Care Association, confirming the cause of the dampness within the property, specifically in the living room, bedroom/store, enclosed chimney flue, under stair cupboard and bathroom. The report should include details of the remedial action necessary to address the dampness and resultant deterioration to internal fabric.

b) Send a copy of the above report to the tribunal for its approval. Once the report has been approved, all of the recommended repairs should be completed in order to ensure that the property is wind and watertight and in all other respects reasonably fit for human habitation.
2. Install a smoke detector at the upper floor landing ensuring that it is interconnected with either the existing ground floor smoke and heat detectors or their replacements, ensuring that they are all fully functional and meet the requirements contained within the Housing (Scotland) Acts 1987 and 2006, as subsequently amended by the Modification of the Repairing Standard Regulations 2019.
3. Obtain a report from a suitably qualified heating engineer on the existing central heating system and forward a copy of the report to the tribunal for approval. Once approved, complete any necessary repairs contained therein to ensure that the system, including all radiators, is in a reasonable state of repair and in proper working order.
4. Relocate the Carbon Monoxide (CO) detector within the kitchen to a position which complies with current Scottish Government statutory guidance for the provision of CO detectors in private rented housing.
5. Redecorate as necessary following completion of all repairs required to comply with this order.

The tribunal ordered that all of the works must be carried out and completed within the period of three months from the date of service of the RSEO.

3. On 26 September 2022, a letter was received by email from Pollock and McLean, the solicitors for the landlord's attorney, requesting an extension of one month in order to complete the works in the RSEO. The letter stated that a specialist damp report had been instructed but was not yet available.
4. In all the circumstances, the tribunal agreed to extend the period for the completion of the works from the original date stated in the RSEO until **8**

November 2022. The tribunal notes, however, that it expects that all of the works in the RSEO (items 1-5) will have been carried out by that date.

5. Once the extended completion period for the works comes to an end, a date will be fixed for a re-inspection of the house. If the tribunal finds at the re-inspection that all or any of the works have not been completed, it is likely to issue a decision that the landlord has failed to comply with the RSEO.

Rights of Appeal

6. 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.
7. 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.

Date 5 October 2022

Sarah O'Neill, Chairperson