

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

---



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

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

**Chamber Reference FTS/HPC/RT/17/0533**

**Re: property at: 13J North Ellen Street, Dundee, DD3 7DF being the subjects more particularly described in and disposed by Disposition by John Justice and Susan Justice in favour of Ashraf Aboobaker, Aniz Aboobaker and Rizvan Aboobaker recorded in the General Register of Sasines for the County of Angus on 26<sup>th</sup> February 1992 ('the House')**

### **The Parties:**

Dundee City Council, Private Sector Services Unit, 3 City Square, Dundee, DD1 3BS ('the Third Party Applicant')

Mr Rizvan Aboobaker, 26 Clayhills Drive, Dundee, DD2 1SX ('the Landlord')

Mr Robert Kyle residing at 13J North Ellen Street, Dundee, DD3 7DF ('the Tenant')

The Tribunal having determined by decision dated 6<sup>th</sup> August 2018 that the Repairing Standard Enforcement Order ("RSEO") relative to the House dated 13<sup>th</sup> April 2018 should be varied, hereby varies the RSEO to:

1. Remove the requirement to repair or replace the cooker to ensure that it is in a reasonable state of repair and in proper working order;
2. Extend the period allowed for the completion of the works required by the RSEO to a period of four weeks from the date of receipt of this varied RSEO.

Subsection 25(3) of the Housing (Scotland) Act 2006 applies in this case.

### **Rights of Appeal**

**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.

**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 typewritten on this and the preceding page are executed by Helen Forbes, solicitor, chairperson of the Tribunal at Inverness on 9<sup>th</sup> August 2018 before this witness:-

M Forbes

H Forbes

\_\_\_\_\_ witness

\_\_\_\_\_ chairperson

Margaret Forbes, 67B Glenurquhart Road, Inverness, IV3 5PB

# **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**

**Chamber Reference FTS/HPC/RT/17/0533**

**Re: property at: 13J North Ellen Street, Dundee, DD3 7DF being the subjects more particularly described in and disposed by Disposition by John Justice and Susan Justice in favour of Ashraf Aboobaker, Aniz Aboobaker and Rizvan Aboobaker recorded in the General Register of Sasines for the County of Angus on 26<sup>th</sup> February 1992 ('the House').**

### **The Parties:**

**Dundee City Council, Private Sector Services Unit, 3 City Square, Dundee, DD1 3BS ('the Third Party Applicant')**

**Mr Rizvan Aboobaker, 26 Clayhills Drive, Dundee, DD2 1SX ('the Landlord')**

**Mr Robert Kyle residing at 13J North Ellen Street, Dundee, DD3 7DF ('the Tenant')**

### **Tribunal Members**

**Ms Helen Forbes (Legal Member)**

**Mr Andrew McFarlane (Ordinary Member)**

### **Background**

1. The Tribunal issued a decision dated 9<sup>th</sup> April 2018 requiring the Landlord to comply with the Repairing Standard Enforcement Order (RSEO) relative to the property issued by the Tribunal on 20<sup>th</sup> April 2018. The RSEO required the Landlord to:
  1. Repair or replace the windows throughout the House to ensure that they are in a reasonable state of repair and in proper working order, ensuring that:
    - (a) all windows open and close in a proper manner;
    - (b) all weathered timber components are in a reasonable state of repair;
    - (c) all pointing to the windows is restored;

2. Restore the electrical system within the property to a reasonable state of repair;
3. Produce a satisfactory Electrical Installation Condition Report (EICR) from a suitably qualified and registered SELECT or NICEIC electrical contractor on the installation within the house for the supply of electricity;
4. Repair or replace the cooker to ensure that it is in a reasonable state of repair and in proper working order;
5. Repair or replace the bathroom fan to ensure that it is in a reasonable state of repair and in proper working order.

The Committee ordered that the works specified in the RSEO must be carried out and completed within a period of 6 weeks from the date of service of the RSEO.

2. On 2<sup>nd</sup> July 2018, the Ordinary Member carried out a re-inspection of the Property. By report of the same date, the Ordinary Member reported that the two windows on the front elevation had been replaced with uPVC framed windows with opening lights and sealed double glazed units. The installation appeared to be of reasonable quality although some of the supporting timbers remained exposed. The window on the rear elevation to the kitchen had been restored to an operational condition. The timbers, although heavily weathered and lacking a protective coating of paint, were in a reasonable state of repair and the pointing was in a reasonable state of repair. The landlord indicated that works had been carried out to the electrical system and produced a copy of an EICR dated 16 January 2018 signed by a Jamie Fairlie. This indicated that the installation was satisfactory. The EICR had no reference number nor contractor's details. The landlord confirmed that the cooker had not received attention. His position was that the cooker was not his, nor was it part of the subjects let. The bathroom fan was found on inspection to be operational. The report was circulated to parties.
3. On 11<sup>th</sup> July 2018, the Third Party Applicant submitted representations stating that the EICR was marked satisfactory, yet it showed three Code C2 with no indication that these faults had been rectified.
4. On 19<sup>th</sup> July 2018, the Landlord submitted representations stating that all the work had been carried out. He lodged a Minor Electrical Works Installation Certificate dated 1<sup>st</sup> January 2018. He provided photographs indicating that the external exposed timbers had been coated with uPVC.
5. The Tribunal considered the case and decided that the electrical certification provided is not sufficient. Both the EICR and the Minor Electrical Works