

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 Ref: FTS/HPC/RP/17/0009

Sasines Description: House known as Clisham (otherwise Engineer's House), Ardvar, Drumbeg, Lairg, Sutherland, IV27 4NJ being part of the subjects described in Disposition in favour of Aubrey Buxton, recorded in the division of the General Register of Sasines for the County of Sutherland on 26th May 1971 (Search Sheet number 1099).

House address: Clisham, Ardvar, Drumbeg, Lairg, Sutherland, IV27 4NJ ('the House')

The Parties:-

Mr Mark Woodward, Clisham, Ardvar, Drumbeg, Lairg, Sutherland, IV27 4NJ ('the Tenant')

Ardvar Fish Farmers (James Gladstone Payne, Margaret Payne and Michael Payne), having its place of business at Ardvar, Drumbeg, Lairg, Sutherland, IV27 4NJ ('the Landlords')

Repairing Standard Enforcement Order against:

Ardvar Fish Farmers (James Gladstone Payne, Margaret Payne and Michael Payne), having its place of business at Ardvar, Drumbeg, Lairg, Sutherland, IV27 4NJ ('the Landlords')

The Tribunal having determined on 26th June 2017 that the Repairing Standard Enforcement Order relative to the House dated 19th March 2017 should be varied, the Tribunal hereby varies the Repairing Standard Enforcement Order to the effect that the period allowed for the completion of the works required by the Repairing Standard Enforcement Order is extended until 14th August 2017.

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply 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.

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 3rd July 2017 before this witness:-

witness

chairperson

Mrs M Forbes, 67B Glenurquhart Road, Inverness, IV3 5PB

Housing and Property Chamber

First-tier Tribunal for Scotland



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STATEMENT OF DECISION: Housing (Scotland) Act 2006 section 25

Chamber Ref: FTS/HPC/RP/17/0009

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Mr Mark Woodward, Clisham, Ardvar, Drumbeg, Lairg, Sutherland, IV27 4NJ ('the Tenant')

Ardvar Fish Farmers (James Gladstone Payne, Margaret Payne and Michael Payne), having its place of business at Ardvar, Drumbeg, Lairg, Sutherland ('the Landlords')

Tribunal Members – Helen Forbes – Legal Member; Robert Buchan – Ordinary Member

Background

1. The Tribunal issued a decision on 27th March 2017 requiring the Landlords to comply with the Repairing Standard Enforcement Order (RSEO) relative to the property issued by the Tribunal on 27th March 2017. The RSEO required the Landlords to:
 1. Repair or replace the patio door and associated glazing to ensure that the door is wind and water tight, and in a reasonable state of repair and in proper working order;
 2. Install satisfactory thermal insulation in the loft of the House to meet current standards;
 3. Repair or replace the guttering 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 12 weeks from the date of service of the RSEO.

2. On 16th June 2017, the Tribunal received representations from the Landlords stating that all the work required by the RSEO except the works to the patio doors had been carried out. The Landlords stated that they are reliant on the availability of the glazing contractor. The Tenant had not been available on the original date identified by the contractor to attend to carry out a survey in relation to the works required. The survey was carried out on 23rd May 2017. Thereafter, it was proposed that the works be carried out on 23rd June 2017, however, the Tenant was not in agreement with the work being carried out on that date. The Landlords informed the Tribunal that it was their understanding that the Tenant would not agree to this date as it fell outwith the 12 week period allowed in terms of the RSEO. The Landlords requested an extension of two months from 30th June 2017 to allow a suitable date to be identified for the works to be carried out.
3. The Tribunal considered that, in all the circumstances of the case, and having particular regard to the remote location of the House and the availability of the contractor, it would be reasonable to vary the RSEO to allow a further period as requested for the completion of the works to the patio doors. The Tribunal accordingly varies the RSEO to extend the period for the completion of the works to 14th August 2017.
4. The Tribunal expects the Tenant to allow reasonable access to the Landlords and their contractor in order to allow the works to be carried out.
5. The Tribunal notifies the Landlords that, if the works have not been completed by 14th August 2017, it may consider that the Landlords have failed to comply with the RSEO.
6. If the Tribunal determines that there has been such a failure to comply, it must serve notice of that failure on the local authority. In terms of section 28(1) and 28(7) of the Housing (Scotland) Act 2006, 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.

Right of Appeal

7. 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 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 decisions and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

H Forbes

Signed

Date *3rd July 2017*

Chairperson