

Housing and Property Chamber
First-tier Tribunal for Scotland



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

**Notice of Variation of Repairing Standard Enforcement order:
Housing (Scotland) Act 2006: Section 25(1)**

Chamber Ref: PRHP/RT/16/0326

8 High Street, Lockerbie, DG11 2AA

**All and Whole the subjects described in a Lease dated 31st March, 8th April and 1st May 1786, by Dame Grace Douglas Johnstone of Lockerbie relict of Sir William Douglas of Kelhead, Bart., with consent of Trust Managers of her said Estate, appointed by the deceased William Johnstone of Lockerbie to John Marshall of a Piece of Land extending in front to 50 feet, at the Townhead of Lockerbie bounded on the West by the Road or Street of Lockerbie, Parish of Dryfesdale, an extract of which is registered in the Division of the General Register applicable to the County of Dumfries on 30th May 1870 but only in respect of the house at 8 High Street, Lockerbie.
("The House")**

The Parties:-

**Dumfries and Galloway Council,
Council Offices,
Buccleuch Street,
Dumfries,
DG1 2AD
("the Third Party Applicant")**

**Ms Gillian Glennie,
Sometime residing at the House**

("the Tenant")

**Mr Allan Airley, Mr John Graham, George Trudt and Mr Robert McMillan, as
Trustees of the Mid Annandale Comrades Club ,
2-6 High Street,
Lockerbie,
DG11 2AA**

("the Landlord")

Tribunal Members: Martin J. McAllister, solicitor, legal member and Kingsley Bruce, surveyor, ordinary member.

NOTICE TO

Mr Allan Airley, Mr John Graham, George Trudt and Mr Robert McMillan, as Trustees of the Mid Annandale Comrades Club ,

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determines that the repairing standard enforcement order relative to the Property dated 21st December 2016 be varied with effect from the date of service of this Notice in the following respect:-

The period allowed for the completion of the work required by the repairing standard enforcement order is extended until 30th September 2017.

Section 25(3) of the Housing (Scotland) Act 2006 does apply in this case.

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 on this and the preceding page are signed at Kilwinning on 5th June 2017 by Martin Joseph McAllister, solicitor, before Kayleigh Guthrie, 83 Main Street, Kilwinning

K Guthrie

M McAllister

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: PRHP/RT/16/0326

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Trustees of the Mid Annandale Comrades Club ,
2-6 High Street,
Lockerbie,
DG11 2AA**

("the Landlord")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determines that the Repairing Standard Enforcement Order relative to the Property dated 10th March 2016 should be VARIED with effect from the date of service of this Notice in the following respect:-

The period allowed for the completion of the work required by the order is extended until 30th September 2017

Background

The members of The First-tier Tribunal for Scotland (Housing and Property Chamber) dealing with the application are Martin J. McAllister, solicitor, legal member and Kingsley Bruce, surveyor, ordinary member.

A repairing standard enforcement order (RSEO) dated 21st December 2016 had been made in the following terms:

**(ONE) The Landlord is to engage a competent damp and timber specialist to establish the cause and extent of dampness in the kitchen, undertake such works as necessary and reinstate where required including decoration.
(Section 13 (1) (a) of the Housing (Scotland) Act 2006 Act as amended (the 2006 Act)).**

**(TWO) The Landlord is to repair or renew joinery and glazing as required in the rear porch.
(Section 13 (1) (b) of the 2006 Act).**

**(THREE) The Landlord is to repair or renew the rear outside light to ensure that there is no cable running between the House and the adjoining building or, if it is, that it is adequately and safely supported and complies with appropriate standards.
(Section 13 (1) (c) of the 2006 Act).**

**(FOUR) The Landlord requires to ensure that heat and smoke alarms comply with the requirements of the revised Domestic Technical Handbook issued by Scottish Government's Building Standards Division (Technical Handbooks 2013:- Domestic-Fire)
(Section 13 (1) (f) of the Act).**

**(FIVE) The Landlord requires to install a functioning carbon monoxide detector.
(Section 13 (1) (g) of the Act).**

**(SIX) The Landlord is to produce an electrical installation condition report prepared by a suitably competent person confirming that the electrical system within the Property is in a safe and efficient condition.
(Section 13 (1) (c) of the 2006 Act).**

In view of the nature of the failure to meet the Repairing Standard as defined in the Housing (Scotland) Act 2006, the tribunal that the repairing standard enforcement order requires to be complied with by the date twelve weeks from service of the repairing standard enforcement order upon the Landlord.

1. On 3rd April 2017 the property was reinspected by the ordinary member who produced a Report dated 10th April 2017.
2. The Report disclosed that no work had been done.
3. The Landlord made representations following upon receipt of the reinspection report. It was stated that the tenancy had been lawfully terminated and that the Landlord had de-registered as a Landlord with the local Council. It was also stated that the House was on the market and the tribunal was provided with a copy of a property sales schedule.
4. The third party applicant stated that the property was on the market and was unoccupied.
5. The Landlord had previously indicated that, as a registered club, it had no funds to do the necessary works and that any works would require to be done by a new owner.
6. The tribunal considered matters and whether or not it would be appropriate for it to issue a Notice of non compliance because none of the works required by the RSEO had been done. On balance and taking into account all matters regarding the status of the Landlord, the fact that the tenancy has been lawfully terminated and that the property is on the market, the tribunal determined that it should vary the RSEO to allow more time for the necessary works to be done.
7. The tribunal determined that the RSEO should be varied in accordance with the terms of Section 25(1) of the 2006 Act.
8. The tribunal determined that it would be reasonable for the period for compliance with the RSEO to be extended to 30th September 2017.

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.

M McAllister

Martin J. McAllister, solicitor,
Legal member of tribunal.
5th June 2017