

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

House at 45 Killermont Road, Bearsden, East Dunbartonshire, G61 2JB

Case Reference FTS/HPC/RP18/1536

Ms Caroline Lever, 45 Killermont Road, Bearsden, East Dunbartonshire, G61 2JB (“the Tenant”)

Mr Abdul Rehman, 3 Windsor Street, Glasgow, G20 7NA (“the Landlord”)

45 Killermont Road, Bearsden, East Dunbartonshire, G61 2JB registered under Title Number DMB17733 (“the Property”).

Tribunal Members: Martin McAllister (Legal Member) and Kingsley Bruce, Chartered Surveyor, (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) having determined on 17th July 2019 that the repairing standard enforcement order (RSEO) relative to the Property dated 8th October 2018 should be varied, the said **RSEO is hereby varied** with effect from the date of service of this Notice in the following respects:-

The period allowed for the completion of the work required by the order is extended to 30th September 2019

Reasons:

Set out in Decision of even date

Subsection 25(3) of the Housing (Scotland) Act 2006 as amended does 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.

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 the house at any time during which an RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page are executed by Martin Joesph McAllister, solicitor, legal member of the Tribunal, at Kilwinning on 17th July 2019 in the presence of Audrey Boylan, 83 Main Street, Kilwinning.

A Boylan

M McAllister

Housing and Property Chamber First-tier Tribunal for Scotland



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Determination: Housing (Scotland) Act 2006: Section 25

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45 Killermont Road, Bearsden, East Dunbartonshire, G61 2JB registered under Title Number DMB17733 (“the Property”).

Tribunal Members: Martin McAllister (Legal Member) and Kingsley Bruce, Chartered Surveyor, (Ordinary Member).

Background

1. By application received by the Tribunal on 26TH June 2018, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland (the Tribunal) for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (the 2006 Act). The application is in terms of Section 22 (1A) of the 2006 Act. The Application was accompanied by a number of photographs of the Property.

2. The Application stated that the Property does not meet the repairing standard set out Section 13 of the 2006 Act. It states that the Property is not wind and watertight and in all other respects reasonably fit for human habitation, that the structure and exterior (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order, that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order, that any fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order, that the Property does not have satisfactory

provision for detecting fires and for giving warning in the event of fire or suspected fire and that the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

3. On 8th October 2018 the tribunal made a repairing standard order in the following terms:

The Landlord is to

- (1) Instruct a suitably qualified central heating engineer to provide a report confirming that the hot water system is functioning. (Sections 13 (1) (c) of the 2006 Act).**
- (2) Repair and make good the hole in the bathroom floor. (Section 13 (1) (b) of the 2006 Act).**
- (3) Replace the broken glazing in the porch extension. (Section 13 (1) (b) of the 2006 Act).**
- (4) Repair and replace where necessary the bathroom tiles. (Section 13 (1) (b) of the 2006 Act).**
- (5) Repair and replace defective plasterwork in the front vestibule. (Section 13 (1) (b) of the 2006 Act).**
- (6) Repair the attic hatch. (Section 13 (1) (b) of the 2006 Act).**
- (7) Instruct an appropriately qualified specialist to investigate and repair, where necessary, the dampness in the rear bedroom and provide the Tribunal with a copy of the specialist's report (Section 13 (1) (a) of the 2006 Act).**
- (8) Provide a current Electrical Installation Condition Report for the Property including PAT testing for any portable appliances supplied by the Landlord. The Report requires to be prepared by a suitably approved electrician who is either employed by a firm that is a member of an accredited registered scheme operated by a recognised body or a self-employed member of an accredited registration scheme operated by a recognised body, or is able to complete, sign and submit to the Tribunal the checklist at Annex A of the Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property together with copies of documentary evidence in support of the checklist. (Section 13 (1) (c) of the 2006 Act).**

The Landlord requires to comply with the repairing standard order within four months of service of it on him.

4. A reinspection of the Property was arranged and on 21st February 2019 the Landlord emailed the Tribunal seeking to have the inspection postponed and requesting that the tribunal vary the RSEO to allow more time for the works to be done. The email stated that it was intended that the Property becomes the Landlord's family

home and that the project of renovation is costing £30,000. The Landlord stated that some considerable work had been done but that the house was currently a construction site.

5. The members of the Tribunal considered matters in the context of the repairing standard enforcement order which it had made. It noted that the tenancy had been terminated and that it was the Landlord's intention to occupy the Property. The members of the tribunal considered it reasonable to vary the RSEO and were prepared to accept what the Landlord stated in respect of considerable work which had already been completed. The tribunal considered it reasonable for the Landlord to be given until 15th May 2019 to complete the work.

6. Determination of 11th May 2019

The tribunal determined to vary the repairing standard enforcement order in the following terms:

The Landlord is to complete the works necessary to implement the repairing standard enforcement order by 15th May 2019.

7. Reinspection

On 11th May 2019 the Ordinary Member inspected the Property and found that a considerable amount of work required by the RSEO had been completed. A copy of the reinspection report dated 29th May 2019 is attached hereto.

8. Determination 17th July 2019

In view of the substantial progress made to do the works required by the RSEO, the tribunal considered it reasonable to vary the repairing standard enforcement order in the following terms:

The Landlord is to complete the works necessary to implement the repairing standard enforcement order by 30th September 2019.

Note:

The tribunal noted that the following parts of the RSEO are outstanding:

- (1) Instruct a suitably qualified central heating engineer to provide a report confirming that the hot water system is functioning. (Sections 13 (1) (c) of the 2006 Act).
- (2) Instruct an appropriately qualified specialist to investigate and repair, where necessary, the dampness in the rear bedroom and provide the Tribunal with a copy of the specialist's report (Section 13 (1) (a) of the 2006 Act).
- (3) Provide a current Electrical Installation Condition Report for the Property including PAT testing for any portable appliances supplied by the Landlord.

The Report requires to be prepared by a suitably approved electrician who is either employed by a firm that is a member of an accredited registered scheme operated by a recognised body or a self-employed member of an accredited registration scheme operated by a recognised body, or is able to complete, sign and submit to the Tribunal the checklist at Annex A of the Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property together with copies of documentary evidence in support of the checklist. (Section 13 (1) (c) of the 2006 Act).

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,
Legal Member, First-tier Tribunal for Scotland
17th July 2019



HPC Re-inspection Report

Property: 45 Killermont Road, Bearsden, East Dunbartonshire, G61 2JB

Ref No: FTS/HPC/RP/18/1536

Surveyor: Kingsley K Bruce, MRICS

Access:

I attended for the purposes of undertaking a re-inspection the property at 10:00 on Friday 17 May 2019.

In Attendance:

The property was vacant and unoccupied, the Landlord, Mr Abdul Rehman was represented by his mother Mrs Rehman and his Contractor Mr Stephen Mackinnon, who provided access, the tenant who lodged the original application was neither present nor represented and was no longer in occupation of the property.

Weather:

Conditions were generally dry and bright at the time of my re-inspection.

Requirements of the Repairing Standard Enforcement Order (RSEO):

Following an inspection and hearing on 20 September 2018, the tribunal determined as shown in the following extract:

- (1) Instruct a suitably qualified central heating engineer to provide a report confirming that the hot water system is functioning. (Sections 13 (1) (c) of the 2006 Act).
- (2) Repair and make good the hole in the bathroom floor. (Section 13 (1) (b) of the 2006 Act).
- (3) Replace the broken glazing in the porch extension. (Section 13 (1) (b) of the 2006 Act).
- (4) Repair and replace where necessary the bathroom tiles. (Section 13 (1) (b) of the 2006 Act).
- (5) Repair and replace defective plasterwork in the front vestibule. (Section 13 (1) (b) of the 2006 Act).
- (6) Repair the attic hatch. (Section 13 (1) (b) of the 2006 Act).
- (7) Instruct an appropriately qualified specialist to investigate and repair, where necessary, the dampness in the rear bedroom and provide the Tribunal with a copy of the specialist's report (Section 13 (1) (a) of the 2006 Act).
- (8) Provide a current Electrical Installation Condition Report for the Property including PAT testing for any portable appliances supplied by the Landlord. The Report requires to be prepared by a suitably approved electrician who is either employed by a firm that is a member of an accredited registered scheme operated by a recognised body or a self-employed member of an accredited registration scheme operated by a recognised body, or is able to complete, sign and submit to the Tribunal the checklist at Annex A of the Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property together with copies of documentary evidence in support of the checklist. (Section 13 (1) (c) of the 2006 Act).

Works required by the RSEO which have been undertaken:

- The Contractor advised that the gas boiler had been serviced, however no report was available.
- The bathroom has been re-fitted and renewed, including replacement of flooring and tiled finishes.
- Broken glazing has been replaced.
- Plasterwork repairs and decoration had been undertaken in the entrance area.
- The roof access hatch appeared to have been repaired.
- The rear bedroom has been re-
- decorated, however no report had been obtained as required in terms of the RSEO. Debris around the exterior in the same area had been cleared.
- A modern consumer unit was noted, however no EICR, as required in terms of the RSEO or PAT report had been obtained prior to the re-inspection.

Kingsley K Bruce, MRICS
Member
The First Tier Tribunal for Scotland (Housing and Property Chamber)
29 May 2019

Photographs taken during re-inspection 11 May 2019

















