

Housing and Property Chamber

First-tier Tribunal for Scotland



Variation of Repairing Standard Enforcement Order Decision

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

Housing (Scotland) Act 2006 Section 25

Chamber Ref: FTS/HPC/RT/19/3644

Re Property: 18 Brewery Street, Dumfries, DG1 2RP

Title Description

Ground floor flat 18 BREWERY STREET, DUMFRIES, part of (1.) tenement &c. 18, 20 and 22 Brewery Street, referred to in Disp. to James Payne, recorded in Dumfries B.R. 16 May 1882 and (II.) 0.023 acre, on north west of FRIARS VENNEL, referred to in Disp. to Robert McGeorge Payne, recorded in Dumfries B.R. 5 Apr. 1937.

From: From css 7595

Parties:

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ("the Applicant"),

and

Mr Sharaz Rasul, 23 Callum Drive, Dumfries DG1 3EF ("the Respondent") and

Gillespie, Gifford and Brown Solicitors, 133-135 Irish Street, Dumfries, DG1 2NT ("the Respondent's Representative")

The Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") have determined that the Repairing Standard Enforcement Order ("RSEO") relative to the Property, dated 6th September 2021, should be varied with effect from the date of service of this Decision Notice in the following respect:

The period allowed for completion of the works, required by the RSEO, is extended until 30th September 2023.

Reasons for Decision

1. Having received written submissions from the Applicant, Respondent and Respondent's Representative the Tribunal is satisfied that the Property recently suffered extensive flood damage which has delayed the Respondent's carrying out of the remedial works required by the RSEO. The Tribunal is also satisfied that the Property is not currently being let as a residential tenancy and the Respondent is still in the process of selling the Property to Mr S Shaqoor.
2. In the circumstances the Tribunal considers that it is appropriate and just to extend the time for completion of the works required by the RSEO for a period of 6 months until 30th September 2023, which period should also provide sufficient opportunity for the Respondent to complete his sale of the Property to Mr S Shaqoor, for use as a private dwelling only.

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.

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 Gerald McWilliams, Legal Member of the Tribunal, at Glasgow on 28th March 2023, before this witness:

G Williams