

Housing and Property Chamber

First-tier Tribunal for Scotland



THIRD NOTOTICE OF VARIATION AND STATEMENT OF DECISION TO VARY THE REPAIRING STANDARD ENFORCEMENT ORDER UNDER SECTION 25 OF THE HOUSING (SCOTLAND) ACT 2006 (“THE ACT”).

Chamber Ref: RP/HPC/RP/18/0231

THE PROPERTY:

46, Fort Street, Ayr KA7 1DE being All and Whole: (I) 2 storey house at 46 Fort Street, Ayr, part of the subjects referred to in Disposition in favour of William Auld, recorded in the Division of the General Register of Sasines applicable to the County of Ayr on 12 November 1902 and (II) offices at 48 Fort Street, Ayr, referred to in Disposition in favour of Ayr Tyre Factors Limited, recorded in the said Division of the General register of Sasines on 4 January 1962.

THE PARTIES:

Mr Douglas Swan, residing at 46 Fort Street, AyrKA7 1DE (“the tenant”)

and

Mrs Sally Ward, Ward Properties, Allestree Mews, Southwood, Troon KA10 7EL, per her agent Mr Colin Duck, Solicitor, The McKinstry Company, Queen’s Court House, 39 Sandgate, Ayr KA7 1BE (“the landlord”)

THE TRIBUNAL:

David M Preston (Legal Chair) and Donald Wooley, Surveyor (Ordinary Member)

Decision:

The tribunal hereby further varies the Repairing Standard Enforcement Order dated 9 April issued on 12 April, both 2018 by extending the time limit specified therein for the works to be completed to a date six weeks from the date of issue of this Third Notice of Variation.

Background:

1. On 28 January 2019 the tribunal issued a second Variation to extend the time limit for the landlord to carry out the outstanding works specified in the RSEO dated 9 April 2018 until 30 March 2019.
2. By email dated 21 March 2019 the landlord's agent applied on behalf of his client for a further variation of the time limit within which the works are to be carried out. The application explained the steps which had been taken to carry out the works and the reasons for it not having completed within the existing time limit (by 31 March 2019).
3. The tribunal noted that a Right of Entry application made by the landlord had been granted on 6 February 2019. Access to the property had been permitted by the tenant for the contractor to inspect and assess the works which it had been proposed would take four days and would be carried out on 19-22 March 2019 inclusive. This had not proved possible due to a hearing before the First-tier Tribunal in connection with another matter. As a result, all four days during which the works could have been progressed were lost to the contractor and fresh dates required to be negotiated.
4. The landlord now proposes that the works be carried out over the period 15 – 19 April 2019 inclusive, presumably due to the availability of the contractor. We are advised that these dates have been intimated to the tenant and in any event, he is now fully aware of them as being included in this application.
5. On 25 March 2019 the tenant emailed HPC Administration and confirmed that he had no objection to this application for variation of the current RSEO being granted.
6. For these reasons and in order to ensure as efficient a despatch of the RSEO the tribunal agrees to grant the variation and extends the time limit to a date six weeks from the date of issue of this Notice of Variation.

In terms of section 46 of the Tribunals (Scotland) Act, 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.

D Preston

27 March 2019

..... Chairman