

Housing and Property Chamber First-tier Tribunal for Scotland



VARIATION OF REPAIRING STANDARD ENFORCEMENT ORDER

Chamber Reference number: FTC/HPC/RP/19/0913

Parties:

1. Mr. Peter Chinskie Durnion, residing at 14, Lauranne Place, Bellshill, ML4 3HX ("the Landlord")

Property: 231B, Main Street, Bellshill ML4 1AJ being the subjects registered in the Land Register for Scotland under Title Number LAN53079 ("the Property")

Tribunal Members

Karen Moore (Chairperson)

Andrew Murray (Ordinary Member)

Notice to Landlord

Peter Chinskie Durnion, residing at residing at 14, Lauranne Place, Bellshill, ML4 3HX.

Whereas in terms of its decision dated 19 June 2019, the First-tier Tribunal for Scotland determined that the Repairing Standard Enforcement Order made by it on 17 May 2019 be varied, now varies the said Repairing Standard Enforcement Order as follows:-

The time limit for completion of the works required by the said Repairing Standard Enforcement Order is extended to **30 September 2019**.

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.

Further, in terms of Section 28(1) of the Housing (Scotland) Act 2006, a landlord who, without reasonable excuse, fails to comply with a Repairing Standard Enforcement Order commits an offence liable on summary conviction to a fine not exceeding Level 3 of the standard scale, and in terms of Section 28(5) of that Act, also commits an offence if he or she enters into a tenancy or occupancy agreement in relation to a house at any time during which a Repairing Standard Enforcement Order has effect in relation to the house.

In Witness Whereof these presents printed on this and the two preceding pages are subscribed by Karen Moore, Chairperson of the tribunal, at Glasgow on 19 June 2019 before this witness, Norman William Moore, solicitor, 11, Muirfield Business Centre, South Muirhead Road, Cumbernauld, G67 1AX

N Moore

Witness

K Moore

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 25 of the Housing (Scotland) Act 2006 ("the Act") in respect of an application under Section 22(1) of the Act

Chamber Reference number: FTC/HPC/RP/19/0913

Parties:

1. Ms. Mhairi Wilson residing formerly at 231B, Main Street, Bellshill ML4 1AJ ("the Tenant") and
2. Mr. Peter Chinskie Durnion, residing at 14, Lauranne Place, Bellshill, ML4 3HX ("the Landlord"), together referred to as "the Parties"

Property: 231B, Main Street, Bellshill ML4 1AJ being the subjects registered in the Land Register for Scotland under Title Number LAN53079 ("the Property")

Tribunal Members

Karen Moore (Chairperson)

Andrew Murray (Ordinary Member)

This Decision should be read in conjunction with Decision and Repairing Standard Enforcement Order relating to the Property both dated 17 May 2019.

Decision

The Tribunal, having regard to the Landlord's written representations determined that Repairing Standard Enforcement Order relating to the Property dated 17 May 2019 be varied to allow further time for compliance.

Background

1. By application received on 21 March 2019 ("the Application"), the Tenant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a

determination that the Landlord had failed to comply with the duty imposed on her by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a), 13(1) (f) and 13(1) (g) of the Act. Although, the Application does not specifically refer to a failure to comply with Section 13(1)(c), the Application does complain of a lack of safety certificates and lack of ventilation in the bathroom and so the Tribunal dealt with this under Section 13(1)(c).

2. Specifically, the Application stated that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard as:-
 - i) The roof is leaking causing dampness in the Property;
 - ii) There is no ventilation in the bathroom of the Property;
 - iii) There is no satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire in the Property;
 - iv) There is no carbon monoxide detector in the Property and
 - v) No safety certificates have been provided by the Landlord.

3. An Inspection and Hearing took place on 15 May 2019 at 10.00 a.m. and 11.30 a.m., respectively after which the Tribunal imposed a Repairing Standard Enforcement Order ("the RSEO").

Written Representations from the Parties.

4. Following the imposition of the RSEO, the Tenant emailed the Tribunal to advise that she had vacated the Property. The Tenant is, therefore, no longer an active party in these proceedings.

5. By email dated 12 June 2019, the Landlord requested that the RSEO be varied to allow a further three months to complete the works required by the RSEO citing family health problems as his reason for his request and advising the Tribunal that Property in unlet.

Decision of the tribunal and reasons for the decision.

6. Having regard to the Landlord's request and taking into account the Property is unlet at present, took the view that is reasonable to vary the RSEO to allow further time to complete the works and so, in accordance with Section 25 of the Act varied the RSEO.

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 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.

Signed

K Moore

Karen Moore, Chairperson

19 June 2019