

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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### **Notice of a Decision to Vary a Repairing Standard Enforcement Order**

**Ordered by the First-tier Tribunal for Scotland (Housing and Property Chamber)**

(Hereinafter referred to as "the tribunal")

**Case Reference Number: FTS/HPC/RP/18/3097**

**Re: 33B Glenacre Drive, Glasgow G45 9DT ("the house")**

**Land Register Title No: GLA136346**

**The Parties:-**

**Ms Michelle Fenton, residing at the house ("the tenant")**

**Mr Michael Duffy, 66 Firpark Road, Bishopbriggs, Glasgow G64 1SU ("the landlord")**

**Tribunal Members – Sarah O'Neill (Legal Member) and Mike Links (Ordinary Member, Surveyor)**

### **Repairing Standard Enforcement Order Against:**

**Mr Michael Duffy ("the landlord")**

The tribunal, having determined on 15 April 2019 that the Repairing Standard Enforcement Order relative to the house dated 4 February 2019 should be varied, the committee hereby varies the Repairing Standard Enforcement Order to the effect that the period allowed for the completion of the works required by the Repairing Standard Enforcement Order is extended until 2 June 2019.

### **Rights of Appeal**

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 typewritten on this and the preceding page are signed by Sarah Frances O'Neill, Chairperson of the First-tier Tribunal (Housing and Property Chamber), at Glasgow on the sixteenth day of April Two Thousand and Nineteen before this witness:  
J Devlin S O'Neil

\_\_\_\_\_ witness \_\_\_\_\_ chairperson

Jordan Devlin name in full

20 York Street Address

Glasgow

G2 8GT

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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### **Determination of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

(Hereinafter referred to as “the tribunal”)

### **Statement of decision of the Tribunal under Section 25 of the Housing (Scotland) Act 2006**

**Case Reference Number: FTS/HPC/RP/18/3097**

**Re: 33B Glenacre Drive, Glasgow G45 9DT (“the house”)**

**Land Register Title No: GLA136346**

#### **The Parties:-**

**Ms Michelle Fenton, residing at the house (“the tenant”)**

**Mr Michael Duffy, 66 Firpark Road, Bishopbriggs, Glasgow G64 1SU (“the landlord”)**

**Tribunal Members – Sarah O'Neill (Legal Member) and Mike Links (Ordinary Member, Surveyor)**

#### **Repairing Standard Enforcement Order Against:**

**Mr Michael Duffy (“the landlord”)**

#### **Background**

1. The tribunal issued a decision on 4 February 2019 requiring the landlord to comply with the Repairing Standard Enforcement Order (RSEO) relative to the property issued by the tribunal on the same date. The RSEO required the landlord to:
  1. Instruct a suitably qualified contractor to repair or replace: 1) all of the windows in the house, including the vents and 2) the rear kitchen door, to ensure that all windows and the rear kitchen door are wind and watertight and in proper working order.
  2. Instruct a suitably qualified specialist surveyor to produce a dampness report in respect of the house, and to carry out any remedial works recommended in that report, in order to ensure that the house is wind

and watertight and in all other respects reasonably fit for human habitation. A copy of the specialist surveyor's report should also be copied to the tribunal within the timescale set out below.

3. Instruct a suitably qualified plumbing contractor to carry out an examination of the entire plumbing installation at the house, including the boiler/cylinder, to check the water purity within the house, and investigate the cause of the plumbing issues within the house, including a) the discoloured water in the bathroom and 2) the leak under the kitchen sink and c) any issues with the water going into the washing machine. A copy of the plumbing contractor's report should also be copied to the tribunal within the timescale set out below.
4. Carry out any works recommended by that contractor, in order to ensure that the water within the house is safe to use; and that the plumbing installation is in a reasonable state of repair and in proper working order.
5. Instruct a suitably qualified electrical contractor to repair or replace the lights under the kitchen cupboard, to ensure that they are in a reasonable state of repair and in proper working order.
6. Replace the dishwasher with a new dishwasher which is in a reasonable state of repair and in proper working order.
7. Replace the electric oven with a new oven which is in a reasonable state of repair and in proper working order.
8. On completion of all the above works, ensure that all affected finishes and decoration are restored to an acceptable standard.

The tribunal ordered that the works specified in the RSEO must be carried out and completed within 8 weeks from the date of service of the RSEO.

2. A letter dated 21 March 2019 was received by the tribunal from the tenant's solicitor on 27 March 2019. This letter confirmed that as at that date, the works required at items 5, 6 and 7 of the RSEO had been carried out, but that the remaining works had not been carried out. In a further letter dated 8 April 2019, the tenant's solicitor confirmed that new windows had been fitted at the house on 1 April, but that the issues with dampness, plumbing and the washing machine had not been addressed.
3. A letter dated 1 April 2019 was received from the landlord, stating that the plumbing, water and leak issues had been attended to; that the windows had been replaced; and that new back and front doors had been fitted. In a further

letter dated 3 April, he stated that he had been unwell recently; and that the tenant had not informed him about the leak under the sink or the radiator leak. In the same letter, the landlord also requested an extension to the deadline for completion to 2 April 2019.

4. In another letter of 7 April 2019, the landlord said that he had understood from the tenant's representative that the leak under the sink had been fixed, and that he had been unaware that the kitchen radiator was again leaking. He said that he had been awaiting the installation of the windows prior to instructing a damp proofing company to carry out an inspection, and that this had now been instructed. He also stated that he would attend to the issues with the radiator, sink and shower, as well as the plumbing issues.
5. The landlord later clarified in a telephone conversation with a member of tribunal staff that he had in fact intended to ask for an extension until 2 June 2019 to carry out the remaining works. He also said that the tradesperson who would be carrying out some of the works would be unavailable for several weeks.
6. In considering the landlord's request, the tribunal noted that he appeared to have carried out some of the required works, as confirmed by the tenant's representative. The tribunal also noted that he appeared to be taking steps to address the other works required by the RSEO. The tribunal considers that in all the circumstances it would be reasonable to vary the RSEO to allow the landlord further time to comply with the RSEO as requested. The tribunal accordingly varies the RSEO to extend the period for the completion of the works until **2 June 2019**.

## **Rights of 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.

8. 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.

S O'Neil

Signed..... Date..... 16/1/19

Sarah O'Neill, Chairperson