

# 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/19/0674**

### **Parties:**

1. Ms. Annette McGhee residing at 34, Alloway Grove, Kirkintilloch, G66 2RE ("the Tenant") per her nominated representative in terms of Rule 10 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"), Mr. Raymond Heath of East Dunbartonshire CAB having a place of business at 11, Alexandra Street, Kirkintilloch G66 1HB ("the Tenant's Representative") and
2. Mrs. Norma Graham Vieira residing at 88, Tamworth Lane, Mitcham, Surrey, CR4 1DA ("the Landlord"), the Landlord and the Tenant together referred to as "the Parties".

**Property:** 34, Alloway Grove, Kirkintilloch, G66 2RE being the subjects registered in the Land Register for Scotland under Title Number DMB54826 ("the Property")

### **Tribunal Members**

Karen Moore (Chairperson)

Andrew Taylor (Ordinary Member)

This decision should be read in conjunction with:  
Statement of Decision and Repairing Standard Enforcement Order ("the RSEO") dated 15 May 2019.

### **Decision**

The Tribunal, having regard to the Landlord's written representations determined that Repairing Standard Enforcement Order relating to the Property dated 15 May 2019 be varied to allow further time for compliance.

## **Background**

1. By application received on 4 March 2019 ("the Application"), the Tenant's Representative on behalf of 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) (b) 13(1) (c), 13(1) (d), 13(1) (f) and 13(1) (g) of the Act. A Convener of the Chamber, with delegated powers under Section 96 of the Housing ( Scotland) Act 2014 and Section 21 (8A) of the Act, having considered the application in terms of Section 23(3) of the Act referred the Application to a tribunal, and, in terms of Schedule 2, Paragraph 1 of the Act an Inspection and Hearing were fixed for 7 May 2019 at 10.00 a.m. and 11.30 a.m., respectively, following which the Tribunal imposed the RSEO.

## **Written Representations from the Parties.**

2. By letter dated 24 June 2019, the Landlord requested that the RSEO be varied to allow further time to complete the works required by the RSEO detailing the works completed to date and explaining why further time is required to complete the remaining works

### **Decision of the tribunal and reasons for the decision.**

3. Having regard to the Landlord's request, 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**

4. 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

5 July 2019

# Housing and Property Chamber First-tier Tribunal for Scotland



## VARIATION OF REPAIRING STANDARD ENFORCEMENT ORDER

**Chamber Reference number: FTC/HPC/RP/19/0674**

**Parties:**

1. Ms. Annette McGhee residing at 34, Alloway Grove, Kirkintilloch, G66 2RE ("the Tenant") per her nominated representative in terms of Rule 10 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"), Mr. Raymond Heath of East Dunbartonshire CAB having a place of business at 11, Alexandra Street, Kirkintilloch G66 1HB ("the Tenant's Representative") and
2. Mrs. Norma Graham Vieira residing at 88, Tamworth Lane, Mitcham, Surrey, CR4 1DA ("the Landlord"), the Landlord and the Tenant together referred to as "the Parties".

**Property:** 34, Alloway Grove, Kirkintilloch, G66 2RE being the subjects registered in the Land Register for Scotland under Title Number DMB54826 ("the Property")

**Tribunal Members**

Karen Moore (Chairperson)

Andrew Taylor (Ordinary Member)

**Notice to Landlord**

Whereas in terms of its decision dated 5 July 2019, the First-tier Tribunal for Scotland determined that the Repairing Standard Enforcement Order made by it on 15 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 **23 August 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 preceding page are subscribed by Karen Moore, Chairperson of the tribunal, at Glasgow on 5 July 2019 before this witness, Norman William Moore, solicitor, 11, Muirfield Business Centre, South Muirhead Road, Cumbernauld, G67 1AX

W Moore

*Witness*

K Moore