

Housing and Property Chamber

First-tier Tribunal for Scotland



Variation of Repairing Standard Enforcement Order made by the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 25(1) and 25(2) of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/EH14/32/13

Re: Property at 3/1 Dumbryden Grove, Edinburgh EH14 2QP ("the Property")

Sasine Description: All and Whole the subjects known as 3/1 Dumbryden Grove, Edinburgh, being the subjects more particularly described in Feu Disposition in favour of Mary Eileen Telford, recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 27 February 1992. (Search Sheet 224895)

The Parties:-

Ricardo de Freitas, sometime 3/1 Dumbryden Grove, Edinburgh EH14 2QP ("the Tenant")

Barry MacFarlane, 11 Abbey Court, Inverness IV3 8SN ("the Landlord")

Tribunal members: George Clark (Legal Member/Chair) and Greig Adams (Ordinary/surveyor Member)

NOTICE TO BARRY MacFARLANE ("the Landlord")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), has decided, in terms of Sections 25(1) and 25(2) of the Housing (Scotland) Act 2006, to vary the Repairing Standard Enforcement Order in respect of the Property made by the Private Rented Housing Panel (now the Tribunal) on 14 June 2013, to allow the Landlord a further period of one month within which to complete the work and to intimate to the Tribunal that he has done so.

Right 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 subscribed by George Barrie Clark, Legal Member/Chair, at Lasswade on 19 February 2019, before this witness Valerie Elizabeth Jane Clark, Droman House, Lasswade, Midlothian.

G Clark

..... Legal Member/Chair

V Clark

..... Witness

Housing and Property Chamber

First-tier Tribunal for Scotland



**Statement of decision of the Housing and Property Chamber under
Section 25 of the Housing (Scotland) Act 2006**

Chamber Ref: PRHP/EH14/32/13

**Re: Property at 3/1 Dumbryden Grove, Edinburgh EH14 2QP ("the
Property")**

The Parties:-

**Ricardo de Freitas, sometime 3/1 Dumbryden Grove, Edinburgh EH14
2QP ("the Tenant")**

Barry MacFarlane, 11 Abbey Court, Inverness IV3 8SN ("the Landlord")

**Tribunal members: George Clark (Legal Member/Chair) and Greig
Adams (Ordinary/surveyor Member)**

Decision

The First-tier Tribunal for Scotland ("the Tribunal"), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order in respect of the Property made on 14 June 2013, determined that the Order should be varied to allow the Landlord a further period of one month within which to complete the works required by the Order.

Background

- 1. On 14 June 2013, the Private Rented Housing Panel (now the First-tier Tribunal for Scotland Housing and Property Chamber) issued a Repairing Standard Enforcement Order ("the Order") in respect of the Property. The Order required the Landlord to:-**
 - (a) Replace the central heating boiler using a Gas Safe Registered Engineer and provide a Gas boiler Safety Certificate (CP12);**
 - (b) Replace the seals in the windows of the small rear facing bedroom;**
 - (c) Repair or replace the oven;**
 - (d) Provide the Committee (now Tribunal) with a valid Landlord's Gas Safety Certificate which relates to the Property.**

2. The Property was reinspected by the surveyor member of the Committee (now Tribunal) on 24 July 2014, 10 November 2014 and 25 June 2015 and, on 15 September 2015, the Committee determined that the Landlord had not carried out the works required by the Order. The Committee noted that the Tenant had vacated the Property on 11 July 2014. Notice of the failure to comply was given to City of Edinburgh Council in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the 2006 Act").
3. On 26 October 2018, City of Edinburgh Council advised the Tribunal that the Property was currently empty and under renovation. The Council had contacted the landlord, who had confirmed that he had recently been able to renovate the Property and complete the work required by the Order.
4. The Tribunal reinspected the Property on the morning of 31 January 2019. The Landlord was represented at the reinspection by Ms Rhea Balfour. The Tenant, having vacated the Property, was no longer a Party to the proceedings. The Landlord's representative provided the Tribunal at the inspection with a Gas Safety Certificate, dated 12 December 2018, in respect of the Property in which the installation was deemed to be satisfactory.
5. A Schedule of Photographs, taken at the reinspection, is attached to and forms part of this Statement of Decision.
6. Following the reinspection, the Tribunal held a hearing at George House, 126 George Street, Edinburgh. The Landlord was not present or represented at the hearing.

Summary of the issues

7. The issues to be determined were whether the Landlord had complied with the Repairing Standard Enforcement Order in respect of the Property.

Findings of fact

8. The Tribunal finds the following facts to be established:-
 - The Landlord has replaced the central heating boiler. This was noted in the Decision of the Committee issued on 15 September 2015.
 - The Landlord has replaced the oven.
 - The Landlord has provided the Tribunal with a satisfactory current Gas Safety Certificate in respect of the Property.
 - Viewed from the outside, the perimeter seals of the window of the small rear-facing bedroom are cracked.

Reasons for the decision

9. The Tribunal finds that all the works required by the Order have been carried out, apart from the requirement to replace the seals in the windows of the small rear-facing bedroom. This is a relatively minor matter and, at the reinspection, the Landlord's representative advised the Tribunal that she would arrange for the work to be carried out and would advise the Tribunal when it was completed.
10. The Tribunal was unable to find that all the work required by the Order had been carried out but decided that it was content to vary the Order to allow a further period of one month for the work to be completed. The Tribunal also decided that it would be sufficient for the Ordinary/surveyor Member to reinspect the Property from the outside, so that access to the Property would not be required.

Decision

11. The Tribunal accordingly determined that the Order should be varied by extending the period within which the work required by the Order must be completed, all in terms of Section 25 of the 2006 Act.
12. The decision of the Tribunal was unanimous.

Right 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.

G Clark

Signed Date 31 January 2019
Chairperson

Lessons 31/1/19
This is the Schedule of Photographs
referred to in the finding
Statement & decision
G Clark

Bye Bye/Now
Housing and Property Chamber
First-tier Tribunal for Scotland



**Property: 3/1 Dumbryden Grove,
Edinburgh, EH14 2QP
("the Property")**

**Chamber Reference:
PRHP/EH14/32/13**

SCHEDULE OF PHOTOGRAPHS



1 Rear Elevation.



2 Front Elevation.



3 Front Elevation – right hand window.



4 Front Elevation – central window.



5 Front Elevation – left window.



6 Gable Elevation.



7 Rear Elevation – right hand window.



8 Rear Elevation – central window.



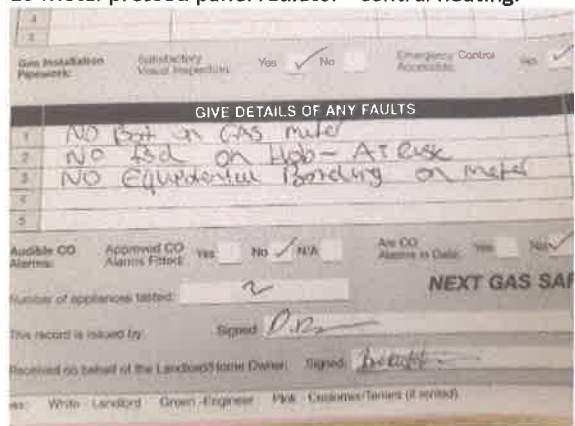
9 Rear Elevation – left window.



10 Metal pressed panel radiator - central heating.



11 Gas Safety Certificate



12 Fault details within Gas Safety Certificate.



13 Date of Gas Safety Certificate.



14 Gas central heating boiler.



15 Close view of boiler.



16 Oven and Hob.



17 Oven.



18 Internal view of windows.



19 Front Elevation – right hand window.



20 Front Elevation – central window.



21 Front Elevation – left hand window.



22 Close view of perimeter sealant to windows.



23 Cracked/split perimeter sealants.