

# **Housing and Property Chamber**

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

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

**RENT RELIEF ORDER under Section 27 of the Housing (Scotland) Act 2006 as amended ("the Act")**

**Chamber Ref: FTS/HPC/RT/18/2230**

**Title no: STG 49369**

**4 Duke Street, Bannockburn, Stirling, FK7 0JQ ("The Property")**

**The Parties: -**

**Stirling Council, Allan Water House, Room 10, Kerse Road, Stirling, FK7 7SG ("the Third Party")**

**Mandy Rushforth, 4 Duke Street, Bannockburn, Stirling, FK7 0JQ ("the Tenant")**

**Mr Stewart Horsburgh, 19 Meadowlands, Portstewart, County Londonderry, Northern Ireland BT55 7FG ("the Landlord")**

### **NOTICE TO STEWART HORSBURGH ("the Landlord")**

Whereas in terms of its decision dated 25 March 2019 the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Tribunal.

The Tribunal determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 70% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under section 64 of the said Act. To ascertain the last date on which the decision can be appealed, please refer to the information note on appeals and reviews, a copy of which is attached.

**A landlord, tenant or third party applicant 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.**

In terms of Section 63 of the Act, 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.

If an application for permission to appeal is received, then the Tribunal will notify you of this and the eventual outcome of that application and any subsequent appeal.

J Bonnar

Signed

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Josephine Bonnar, Legal Member and Chair

25 March 2019

# **Housing and Property Chamber**

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

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

**Statement of Decision: Housing (Scotland) Act 2006 Section 24(1)**

**Chamber Ref: FTS/HPC/RT/18/2230**

**Title Number: STG 49369**

**4 Duke Street, Bannockburn, Stirling, FK7 0JQ ("The Property")**

**The Parties: -**

**Stirling Council, Allan Water House, Room 10, Kerse Road, Stirling, FK7 7SG ("the Third Party")**

**Mandy Rushforth, 4 Duke Street, Bannockburn, Stirling, FK7 0JQ ("the Tenant")**

**Mr Stewart Horsburgh, 19 Meadowlands, Portstewart, County Londonderry, Northern Ireland BT55 7FG ("the Landlord")**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("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 ("RSEO") dated 6 December 2018 determined that the Landlord has failed to comply with the RSEO.**

**The Tribunal comprised: -**

**Mrs Josephine Bonnar, Legal Member**

**Ms Carol Jones, Ordinary Member**

3. The First-tier Tribunal for Scotland served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the parties on 3 October 2018. The parties were notified that an inspection would take place on 12 November 2018 at 10am and that a hearing would take place on 16 November 2018 at 10am at STEP Stirling, Stirling Enterprise Park, John Player Building, Stirling.
4. The Tribunal inspected the property on the morning of 12 November 2018. Mr Andrew Paterson attended on behalf of the Third Party. The Tenant was present. The Landlord did not attend. Thereafter the Tribunal held a hearing on 16 November 2018 at 10am at STEP Stirling, Stirling Enterprise Park, John Player Building, Stirling. Five other applications involving the Third party and the Landlord were also dealt with at the hearing under Chamber references FTS/HPC/RT/18/2235, 2226, 2229, 2232 and 2227. Mr Paterson attended on behalf of the Third Party. The Tenant attended. Also present were Shirley Kane, Blair McKie and Emma Jane McLaughlan, tenants in two of the other applications before the Tribunal. The Landlord did not attend and was not represented. Written representations were submitted by the Landlord but not received until after the hearing. In terms of same the Landlord states that he does not wish to attend the hearing. He also states that he is in the process of "sorting this all out" and has engaged a new letting agent, O'Malley Property, who is in the process of doing all the repairs required to bring the properties up to an acceptable standard. He further states that they have had some difficulty in accessing some of the properties.
5. Following the hearing the Tribunal proceeded to issue an RSEO in relation to the property. In terms of the RSEO the Landlord is required 1) To instruct a suitably qualified window contractor to inspect the windows in the living room, downstairs bedroom and upstairs front bedroom and carry out any necessary repairs to ensure that the windows are in proper working order; or replace the windows. (2) To repair or replace the defective doors and door handles in the living room, downstairs bedroom, upstairs front bedroom and hall cupboard. (3) To replace missing and defective thermostatic radiator controls in the living room, kitchen and hall. (4) To re-instate missing bath panels. (5) To instruct a suitably qualified SELECT, NAPIT or NICEIC registered electrician to carry out a certified electrical inspection and testing of the entire electrical installation in the property, carry out any necessary remedial work, and exhibit a satisfactory EICR to the Tribunal. (6) To provide the Tribunal with evidence from a suitably qualified registered electrician that the smoke and heat detectors in the property are hard wired and interlinked, in proper working order, and comply with

current regulations and guidance. (7) To repair the damaged kitchen units and re-instate missing handles; or replace the kitchen units. (8) To re-instate the missing kitchen door. (9) To replace the damaged letterbox. (10) To replace the defective hot water tap in the downstairs toilet. (11) To instruct a Gas Safe registered engineer to carry out an inspection of the gas appliances at the property and provide the Tribunal with a satisfactory gas safety record. (12) To instruct a suitably qualified roofing contractor to repair and clean out all rainwater goods at the property and ensure that they do not leak and are in a reasonable state of repair; or to replace the rainwater goods, and (13) To install a carbon monoxide detector in the property to comply with current regulations and guidance.

6. The Ordinary Member of the Tribunal re-inspected the property on 14 February 2019. Mr Paterson attended on behalf of the Third Party and access was provided by the Tenant. The Landlord did not attend. The Ordinary Member noted that since the last inspection new ceiling mounted hard wired interlinked smoke and heat detectors have been installed at the property which comply with current regulations and guidance and appeared to be in working order when tested. In addition, 2 new double sockets have been installed in the kitchen. No other work in terms of the RSEO has been carried out. The Tenant advised that a window contractor attended at the property in January 2019 and took measurements for replacement windows, but no work has been undertaken since that visit. She further advised that the electrician who installed the smoke and heat detectors and sockets, also carried out an inspection. He expressed concern about the wiring at the property. She also advised that she had contacted O'Malley Property on 11 February 2019 because the shower was not working and to ask about the wiring. They arranged for an electrician to attend and fix the shower switch. They further advised (by text message) that they are waiting for authorisation and funds from the landlord before they can instruct the other repair works. The Ordinary member noted that the Tenant, Third Party and Tribunal have not been provided with an EICR, gas safety record or evidence from the landlord regarding the smoke and heat detectors, all as required by parts 5, 6 and 11 of the RSEO.
7. Following the re-inspection, a report was issued to parties regarding same. No response was received from the Landlord or Tenant. The Third Party responded confirming that it agreed with the terms of the re-inspection report and indicating that the Tribunal should make a rent relief order reducing the rent payable by 90%.

## **Reason for decision**

8. The Tribunal considered the condition of the property at re-inspection and the written representations received from the third party.
9. The Tribunal notes the Landlord has arranged for hard wired interlinked smoke and heat detectors to be installed and there are new electrical sockets in the kitchen. No further work has been carried out in terms of the RSEO. The Tribunal is satisfied that the Landlord has failed to comply with the RSEO.
10. The Tribunal notes that the failure to comply with the repairing standard affects almost every room in the house and that some of the defects are particularly serious, affecting windows and doors within the property, while others present a possible risk of injury or harm to the occupants of the property, such as potentially dangerous wiring and lack of evidence that the gas and electrical installations are in satisfactory condition. The kitchen and bathroom are also in poor condition. Most of the RSEO has not been carried out. The Third Party seeks a rent relief order reducing the rent payable by 90%. The Tribunal notes that some parts of the property are in a reasonable condition and is therefore satisfied that a Rent Relief Order should be granted reducing the rent payable by 70%.

## **Decision**

11. The Tribunal determined that the Landlord had failed to comply with the RSEO issued by the Tribunal.
12. The Tribunal proceeded to make a Rent Relief Order in terms of Section 27 of the Act.
13. The decision of the Tribunal is unanimous.

## **Right of Appeal.**

**A Landlord, Tenant or Third-party applicant 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.**

In terms of Section 63 of the Act, 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.

J Bonnar

Signed..... 25 March 2019

Josephine Bonnar, Legal Member