

Housing and Property Chamber First-tier Tribunal for Scotland



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/19/3893

Re: Flat 0/1, 22 Seedhill Road, Paisley PA1 1RU (“the house”)

Land Register Title No: REN15462

The Parties:-

Ms Lesley Edgar, formerly residing at the house (“the former tenant”)

Mrs Mandy Thomson, Festival Business Park, 150 Brand Street, Glasgow G51 1DH (“the landlord”)

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

Repairing Standard Enforcement Order Against:

Mrs Mandy Thomson (the landlord)

The tribunal, having determined on 20 November 2021 that the Repairing Standard Enforcement Order relative to the house dated 5 August 2021 should be varied, the tribunal 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 for a further two months from that date until **5 December 2021**.

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.

S O'Neill

Sarah O'Neill, Chairperson

Housing and Property Chamber First-tier Tribunal for Scotland



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/19/3893

Re: Flat 0/1, 22 Seedhill Road, Paisley PA1 1RU (“the house”)

Land Register Title No: REN15462

The Parties:-

Ms Lesley Edgar, formerly residing at the house (“the former tenant”)

Mrs Mandy Thomson, Festival Business Park, 150 Brand Street, Glasgow G51 1DH (“the landlord”)

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

Repairing Standard Enforcement Order Against:

Mrs Mandy Thomson (the landlord)

Background

1. The tribunal issued a decision on 5 August 2021 requiring the landlord to comply with the Repairing Standard Enforcement Order (RSEO) relative to the property issued by the tribunal on the same date.
2. The RSEO required the landlord to:
 - 1) Instruct a suitably qualified specialist surveyor to produce a dampness report in respect of the house, including investigation of any issues contributing to the rising and /or penetrating damp which may have

originated from the flat above or elsewhere within the tenement building. The report should detail any remedial works required in order to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation.

- 2) Send to the tribunal, for approval, the specialist dampness report required at 1) above.
- 3) Once a satisfactory report, and the works specified within it, have been approved by the tribunal, to instruct the specialist surveyor to carry out the works recommended in the report, in order to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation.
- 4) On completion of all the above works, ensure that all affected finishes and decoration are restored to an acceptable standard.

The tribunal ordered that all of the works must be carried out and completed within the period of two months from the date of service of the RSEO.

3. On 5 October 2021, an email was received from the former tenant, advising that she had moved out of the house. The tribunal arranged a re-inspection of the house on 2 November 2021. No correspondence had been received from or on behalf of the landlord following the service of the RSEO.
4. The tribunal attended the house on 2 November 2021 with the intention of carrying out a re-inspection. Mr John Thomson, the landlord's husband (and co-owner) was present on behalf of the landlord. The tribunal noted that the property was empty and that the works were clearly still underway. The tribunal did not therefore carry out a full re-inspection of the house. Some photographs were taken by the tribunal during its visit to the house, as shown in the attached schedule of photographs dated 20 November 2021.
5. Mr Thomson told the tribunal that he had instructed a dampness report. He said that he had instructed a specialist surveyor, who had begun to carry out the works but had been waiting for a spell of dry weather to complete it. He said that he was still awaiting the report from the surveyor, and he undertook to send the report to the tribunal as soon as he received it.
6. The tribunal reminded Mr Thomson that the landlord was required to send the dampness report to the tribunal for approval before instructing the works, The tribunal noted that the house was not habitable in its current state, but reminded Mr Thomson that it is a criminal offence to enter into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect

in relation to the house. This is in terms of Section 28(5) of the Housing (Scotland) Act 2006.

7. An email was received from Mr Thomson on 3 November 2021, attaching a report from O.D.C. Ltd (Preservation Division) dated 2 November 2021 in respect of the dampness issues at the house. In the email, Mr Thomson said that the contractor had indicated that it would take a further two weeks to complete the works. On 15 November 2021, a further email was received from Mr Thomson stating that the remedial works had now been completed.
8. In all the circumstances, the tribunal agreed to extend the period for the completion of the works for a further two months from the original date stated in the RSEO until **5 December 2021**.

Rights of Appeal

9. 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.
10. 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'Neill

Sarah O'Neill, Chairperson

Housing and Property Chamber

First-tier Tribunal for Scotland



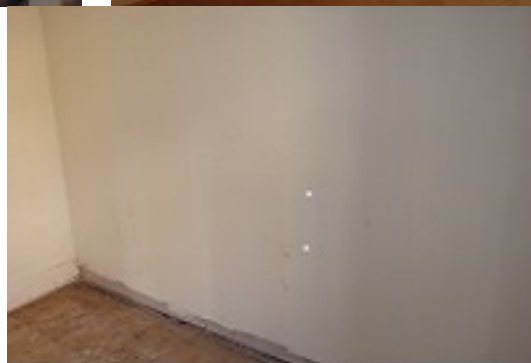
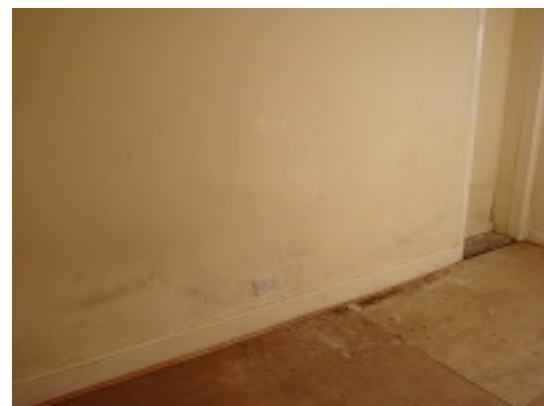
First-tier Tribunal for Scotland (Housing and Property Chamber)

SCHEDULE OF PHOTOGRAPHS

ADDRESS: Flat 0/1, 22 Seedhill Rd, Paisley PA1 1RU

DATE: 2nd November 2021

REFERENCE: FTS/HPC/RP/19/3839



Mr M LINKS

ORDINARY MEMBER (SURVEYOR)

HOUSING AND PROPERTY CHAMBER

*This is the schedule of
photographs referred to in
the attached statement
of reasons dated 20
November 2021*

S O'Neill

20/11/21

DATE 20 Nov 2021