

# Housing and Property Chamber First-tier Tribunal for Scotland

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

Statement of facts and reasons for variation of a Repairing Standard Enforcement Order under section 25 of the Housing (Scotland) Act 2006 of the Private Rented Housing Committee issued under the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016

Chamber Ref: PRHP/RP/16/0050

In connection with,

**Flat 3/1, 55 Broomlands Road, Paisley, PA1 2 NQ (“the property”)**

Parties:

**Miss Liene Visokiha, Flat 3/1, 55 Broomlands Road, Paisley, PA1 2 NQ (“the tenant”)**

**Robert and Joy Saunderson, c/o Castle Residential Scotland Limited, 63 Causeyside Street, Paisley, PA1 1YT (“the landlord”)**

**Title Number: REN 1591**

Tribunal members:

Simone Sweeney (legal chairing member) Andrew Taylor (surveyor member)

## **Background:**

1. A First-tier Tribunal for Scotland Housing and Property Chamber (“the tribunal”) issued a Repairing Standard Enforcement Order (“RSEO”) and determination dated 29<sup>th</sup> April 2016 requiring the landlord:
  - (i) To carry out such repairs or replacements as are required to ensure that the roof of the house is wind and watertight;***
  - (ii) To carry out such repairs or replacements to eradicate all staining and water damage and mould growth on all affected walls and to the ceiling of the bedroom;***
  - (iii) To carry out all ancillary works necessitated by the above works to and make good all decoration.***
2. The landlord was ordered to complete the works within a period of 4 weeks from the date of service of the RSEO.
3. A copy of the RSEO and the tribunal’s decision was shared with both parties.
4. The tribunal’s administration received confirmation by email on 31<sup>st</sup> March 2016 that the tenant intended to return the keys and vacate the property on 30<sup>th</sup> April 2016.
5. A re-inspection of the property was arranged to take place by the surveyor member of the committee on 21<sup>st</sup> July 2016.
6. On 20<sup>th</sup> July 2016 the PRHP received a telephone call from the landlord advising that no works had been completed as the landlord had experienced difficulties which had prevented the works going ahead and would provide more detail in an email.
7. In light of the landlord’s position that no works had been carried out in terms of the RSEO; that the tenancy had been terminated and; that the property was

vacant, the tribunal determined that the re-inspection of 21<sup>st</sup> July 2016 be cancelled and an alternative date be arranged once the email from the landlord was received.

8. An email from the landlord was received by the tribunal's administration on 21<sup>st</sup> July 2016. It read,

*"Regarding the repairs at the above address, there are 11 flats under one roof. Ross & Liddell Ltd are in charge of getting quotes for roof repairs and collecting money from each owner. They say all money has to be with them before work can commence. 6 owners have paid in full. 3 have set up direct debits and 2 have done nothing. In the meantime our Tenant has left our flat because nothing appeared to be done, which she thought was our fault. We cannot do anything on our own as regards to the repairs on the roof. There would be little point in your committee member re-inspecting the flat as nothing has changes since your first visit."*

9. Section 26 (1) of the Housing (Scotland) Act 2006 ("the Act") provides that it is for the tribunal to determine whether a landlord has complied with a RSEO and where the landlord has failed to comply with the order, the tribunal must (at section 26 (2))

*(a)serve notice of the failure on the local authority, and*

*(b)decide whether to make a rent relief order.*

10. However, section 25 of the Act allows the tribunal the right to vary the terms of the RSEO in such a manner as they consider reasonable (section 25 (1) (a)).

11. The property is currently vacant, the tenancy having come to an end in May 2016. Because the property is vacant, this restricts the impact of the failure to carrying out the required repairs detailed in the order for as long as the

property remains unoccupied. The property is currently burdened with a RSEO and for the landlord to re-let the property in such circumstances would be a criminal offence.

12. It is the view of the tribunal that, notwithstanding the vacancy of the property, the responsibility remains on the landlord to satisfy the terms of the RSEO by ensuring that the works are completed in full and on time; and it is not reasonable for the landlord to rely upon any acts or omissions on the part of the factors to excuse the landlord's failure to carry out the works detailed in the RSEO.

13. Whilst it is open to the tribunal to determine that the landlord has simply failed to comply with the terms of the RSEO and to serve notice on the local authority, the tribunal has taken the decision to allow the landlord a further opportunity to address the works at this time. Had the tenancy not been at an end and had a tenant still been residing at the property, the decision of the tribunal may have been different.

14. In terms of section 25 (1) (a) the tribunal varies the terms of the RSEO to provide the landlord a further period of time to complete the works required by the RSEO. The amended completion date of the order is 10<sup>th</sup> March 2017.

### **Right of Appeal**

15. A party to this application, aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

16. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Chairing legal member of the tribunal

... **S Sweeney** .....

Date..... 02/02/2017 .....

