

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision: Housing (Scotland) Act 2006 Section 25(1)(a)

Chamber Ref: PRHP/RP/16/0060

Re: Property at Flat 1/1 544 Hamilton Road, Uddingston, G71 7SG ("the Property")

Title No: LAN 92472

The Parties:-

Robert Hannah currently residing at 8 Croftbank Crescent, G/L, Bothwell, G71 8RS ("the Tenant")

Naeem Ahmed 7 Hawksland Walk, Hamilton ML3 7NX, Parveen Akhtar Ahmed 37 Covanburn Avenue, Hamilton, ML3 7PX, Mohammed Nazir (Deceased) c/o Stonevale Lettings Ltd, 18 Avon Street, Hamilton, ML3 7HU, Shahida Parveen Arshad 14 Baltersan Gardens, Hamilton ML3 7QW; Stonevale Lettings Ltd, 18 Avon Street, Hamilton ML3 7HU (the Landlord(s))

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 Repairing Standard Enforcement Order (RSEO) relative to the property should be varied in terms of Section 25(1)(a) of the Housing (Scotland) Act 2006 agreed that the RSEO should be varied.

The Tribunal comprised:-

Mrs Josephine Bonnar, Legal Member

Ms Carol Jones, Ordinary Member

Background

1. By application received on 12 February 2016 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").

2. The Application by the Tenant stated that the Tenant considered that the Landlords had failed to comply with their duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:- the house is wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed. Specifically the Tenant complained of dampness in the property, uneven floors, a leak in the toilet ceiling and a defective washing machine.
3. The Private Rented Housing Panel served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenant on 15 March 2016.
4. The Private Rented Housing Committee inspected the Property on the morning of 25 April 2016. The Tenant was present during the inspection. Neither the Letting Agent nor the Landlords were present during the inspection.
5. Following the inspection of the property the Private Rented Housing Committee held a hearing at Brandon Gate, Leechlee Road, Hamilton. The Tenant and the Letting Agent, Margaret Jamieson of Stonevale Lettings Ltd were both present and gave evidence.
6. Following the hearing the Committee proceeded to issue a Repairing Standard Enforcement Order. The RSEO required the Landlord (1) To instruct a suitably qualified Building Contractor to carry out the works required to eradicate all water penetration and dampness and render the property wind and watertight, (2) To repair the washing machine to restore it to proper working order or replace it with a new washing machine and (3) To investigate the cause of the slope in the floors within the property and carry out repairs to rectify this defect in the floors. The work required in terms of the RSEO was to be completed within 12 weeks
7. The Surveyor Member re-inspected the property on 15 September 2016. One of the Landlords, Naeem Ahmed, the letting agent Margaret Jamieson of Stonevale Lettings and the Tenants girlfriend Danielle Sweeney were present. The Ordinary Member of the Committee noted that the washing machine has been replaced with a second hand machine which Ms Sweeney confirmed is in working order. No further work had been carried out in terms of the RSEO.
8. Following the re-inspection a re-inspection report was issued to the parties for their comments. On 11 October 2016 the Landlord submitted written representations which indicated that the work required in terms of the RSEO was to be carried out as part of a larger refurbishment project involving the whole building. The work was scheduled to start mid

October 2016. In light of the representations a further hearing was assigned for 14 November 2016. On the 21 October 2016 the letting agents submitted paperwork to the PRHP relating to the proposed refurbishment. They also advised that the Tenant had been decanted from the property to another property while the work is carried out. The Tenant subsequently confirmed that he has been decanted but confirmed that he will move back into the property after completion of the work. On 11 November 2016 the letting agent requested a postponement of the hearing and in addition requested a variation of the RSEO to allow the works, which have now commenced, to be completed. The estimated timescale for the works was 16 weeks from the start date of 10 October 2016. The Tenant confirmed that he had no objection to the hearing being postponed. He made no representations in relation to the request for a variation of the order. The Committee proceeded to grant a variation of the RSEO by extending the time for completion of the works until 28 February 2017

9. On 1 December 2016, the PRHP transferred to the First-tier tribunal for Scotland. The property was scheduled for re-inspection by the Ordinary Member on 6 March 2017. On 17 February 2017 the Tribunal received an email from the Letting Agent which advised that the refurbishment of the property is ongoing but not yet complete. The Letting agent asked for the re-inspection to be postponed and provided paperwork in support of the position including emails, minutes of meetings and progress reports. The Tribunal considered the documentation which established that significant work has been carried out and is ongoing. On 13 March 2017 the Tribunal received an email from the letting agent confirming that a variation of the RSEO was sought to enable the work to be completed. The email indicated an approximate completion date of end of April 2017.

Reason for decision

10. The Tribunal considered the condition of the property as established at the earlier re-inspection and the recent evidence produced by the Letting agent. The Tribunal also took into account the fact that the refurbishment works are in relation to the whole building in which the property is located and are more extensive than required by the RSEO. It noted that the Landlord is working with other owners, the property factor and a local authority in relation to the project which has led to delay. The Tribunal also took into account the fact that the Tenant has been decanted for the duration of the work.
11. The Tribunal concluded that the RSEO should be varied to allow further time for completion of the works.

Decision

12. The Tribunal accordingly determined that further time should be allowed for the works to be carried out and that the RSEO should be varied by extending the time for completion of the work until 31 May 2017.

13. The decision of the Tribunal was 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.

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.

J Bonnar

Date 21 March 2017

Josephine Bonnar, Legal Member

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Variation of Repairing Standard Enforcement Order
Housing (Scotland) Act 2006 Section 25

Chamber Ref: PRHP/RP/0060

Re: Property at Flat 1/1 544 Hamilton Road, Uddingston G71 7SG ("the Property")

Title Number: LAN 92472

The Parties: -

Naeem Ahmed, 7 Hawksland Walk, Hamilton, ML3 7NX; Parveen Akhtar Ahmed, 37 Covanburn Avenue, Hamilton ML3 7PX; Mohammed Nazir (Deceased), c/o Stonevale Lettings Ltd, 18 Avon Street, Hamilton, ML3 7HU; Shahida Parveen Arshad, 14 Balternan Gardens, Hamilton, ML3 7QW; Stonevale Lettings Ltd, 18 Avon Street, Hamilton ML3 7HU ("the Landlord")

Robert Hannah currently residing at 8 Croftbank Crescent, G/L, Bothwell G71 8RS ("the Tenant")

NOTICE TO Naeem Ahmed, Parveen Akhtar Ahmed, Mohammed Nazir (Deceased) and Shahida Parveen Ashrad ("the Landlord")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') having determined on 21 March 2017 that the **Repairing Standard Enforcement Order** relative to the property dated 9 May 2016 should be varied, the said **Repairing Standard Enforcement Order** is **hereby varied** with effect from the date of service of this Notice in the following respects: -

1. The period allowed for the completion of the work required by the Order is extended until 31 May 2017

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

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.

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 executed by Josephine Bonnar, Solicitor, Legal Member of the Tribunal at Motherwell on 21 March 2017 before this witness:-

G Bonnar

Witness

J Bonnar

Legal Member

Gerard Bonnar _____ Name in full

58 Port Dundas Road _____ Address
Glasgow