

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 26(1) of the Housing (Scotland) Act 2006

Chamber Ref: Ref PRHP/RP/15/0031

Re 8 Howgate Street, Dumfries, DG2 7AE being the subjects registered in the Land Register of Scotland under title number DMF 559 ('the Property')

The Parties:-

Mr Andrew Tolmie, sometime residing at 8 Howgate Street, Dumfries, DG27AE ('The Tenant')

Mr Victor Singh, residing at Beechwoodbank, Nith Bank, Dumfries, DG1 2RZ ('The Landlord')

The Tribunal members are Martin J. McAllister, solicitor, legal member and Donald Wooley, surveyor, ordinary member.

Background

1. The Private Rented Housing Committee ('the Committee') issued a Repairing Standard Enforcement Order ('RSEO') on 13th May 2015 in respect of the Property which required the Landlord to carry out the following works:-
 1. The roof is to be repaired where necessary to ensure that the Property is wind and watertight.
 2. The flooring in the second floor bedroom is to be repaired or replaced.
 3. The hole in the wall of the bedroom on the second floor is to be repaired
 4. Missing doors are to be replaced.
 5. Dampness in the walls of the lounge, second floor bedroom and within a cupboard in the rear bedroom on the first floor is to be eradicated.
 6. The flushing mechanism of the downstairs toilet is to be repaired or replaced.
 7. The defective stair treads on the staircase leading from the ground floor are to be repaired so that the staircase is safe to use.
 8. The boiler is to be repaired or replaced to eradicate a leak.

9. *The patio doors are to be repaired or replaced to ensure that they have an effective lock and can open and close easily.*

10. *The light fitting in the lounge and the external light to the rear of the Property are to be repaired or replaced.*

11. *Works are to be carried out to ensure that the electrical sockets are safe and appropriately sited and the Landlord is required to produce a certificate from a suitably qualified electrician confirming that the electrical system is safe.*

12. *The boundary fence is to be repaired or replaced.*

13. *The gable wall is to be inspected and repairs carried out where necessary to ensure that the Property is wind and watertight.*

2. The Committee ordered that the works specified in the RSEO were to be carried out and completed within forty two days of service of the RSEO.
3. On 1st December 2016 jurisdiction of the Private Rented Housing Panel and its Committees passed to The Housing and Property Chamber.
4. At various times the Landlord requested that the RSEO be varied to allow more time for the works to be carried out. The then Committee granted variations on four occasions.
5. On 9th May 2017 a reinspection of the Property was arranged. The surveyor was not given access.
6. On 17th May the Landlord sent an email to the Tribunal Administration apologising for failing to allow access and in that email and a subsequent email dated 18th May 2017 the Landlord indicated that a further extension of time was required and therefore a variation of the RSEO, that the property was to be sold sometime in 2017 and that the purchaser is aware of the existence of the RSEO. The Landlord was unable to state when the Property would be sold because the purchaser requires to get funding from the sale of another property.
7. The members of the tribunal considered whether or not it would be reasonable to allow a further variation of the RSEO in terms of Section 25 of the Housing (Scotland) Act 2006.

Decision and Reasons

8. The tribunal determined that the RSEO has **not been complied with**. The tribunal considered that the Landlord had had sufficient time to comply with the terms of the RSEO and appeared not to have taken advantage of the previous variations. Accordingly the tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order, in relation to the Property concerned, determined that the Landlords have failed to fully comply with the RSEO in terms of section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the Property is situated.

9. As the original Tenant had vacated the Property the tribunal did not proceed to consider if a Rent Relief Order should be made.

Appeals

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.

Signed....
Martin J. McAllister,
Legal Member, First-tier Tribunal for Scotland.

..... Date 5th June 2017