

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber) ('The Tribunal') comprising: Jacqui Taylor (Legal Member) and Mike Links (Ordinary Member).

Statement of the Decision of the Tribunal under section 26(1) of the Housing (Scotland) Act 2006

CHAMBER REF:PRHP/RT/16/0254

Property at Addiewell, Glasgow Road, Sanquhar, DG4 6BZ being the subjects registered in the Land Register of Scotland under Title Number DMF 17696 ('the Property')

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')

Michael John Monk and Susan Anne Monk residing at 174 Liverpool Road, Hutton, Preston, PR4 5SL represented by Ober Estates, Knockburnie Farm, Dalleagles, New Cumnock, KA18 4QP ('the Landlords')

Ms Linda Frances Hurle residing at Addiewell, Glasgow Road, Sanquhar, DG4 6BZ ('the Tenant')

Background

1. The Tribunal, formerly the Private Rented Housing Committee, issued a Repairing Standard Enforcement Order ('RSEO') in respect of the Property which required the Landlords to :-

'1. Repair or replace the defective roof covering of the garden shed.

2. Exhibit to the PRHP Administration current and compliant EICR and PAT certificates confirming that the electrical installations in the Property and the electric fire in the Property is safe and in proper working order and that the smoke and heat detectors are in proper working order and comply with the repairing standard.

3. Exhibit to the PRHP Administration a current and compliant gas safety certificate for the Property.'

2. The Tribunal ordered that the works specified in the RSEO were to be carried out and completed by 15th October 2016.

3. On 26th October 2016 the Ordinary Member of the Tribunal carried out an inspection of the Property to determine if the required works had been carried out. His reinspection report is annexed and executed as relative hereto. His report stated that item 3 of the RSEO had been complied with but items 1 and 2 of the RSEO are outstanding.

5. On 10th January 2017 the Tribunal held a hearing in Sanquhar Town Hall to determine if the terms of the RSEO had been complied with and if they had not been complied with whether a Rent Relief Order should be made.

The Tenant attended. The Third Party Applicant and the Landlords did not attend and were not represented.

The Tenant advised that the repairs to the roof covering of the garden shed had not been carried out. She also confirmed that she had not been provided with the Electrical Condition Report or PAT certificates. She advised that she no longer uses the electric fire as it sparks when it is turned on.

She confirmed that she considered that a rent relief order was appropriate. She asked the Committee to grant a 50% reduction of the rent. She explained that she is concerned that the electrical installation is potentially dangerous.

Decision and Reasons

6. The Tribunal having made such enquiries as is fit for the purposes of determining whether the Landlords have complied with the Repairing Standard Enforcement Order, in relation to the Property concerned, determined that the Landlords have failed to 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.

7. They proceeded to make a Rent Relief Order in terms of section 27 of the Act, which order shall take effect 28 days after the date on which the decision to make the Rent Relief Order may be appealed under section 64 of the Act.

8. The Tribunal considered whether a Rent Relief Order should be made in terms of section 27 of the Act and determined that such an Order should be made given the Landlords failure to comply with the RSEO without reasonable excuse. They then considered the amount by which the rent payable under the tenancy in question should be reduced. They considered the failure by the Landlords to carry out the repairs and exhibit the required certificates materially affected the Tenant's enjoyment of the property as she was very concerned that the electrical installations

in the Property may be unsafe. In all the circumstances they determined that an appropriate reduction in rent would be to reduce the rent payable under the tenancy by 75%. They considered that the Rent Relief Order should be effective from 28 days after the last date in which the decision the Rent Relief Order may be appealed under Section 64 of the Act.

Right of Appeal

A landlord, tenant or third party applicant 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.

If a party seeks permission to appeal and this permission is refused, the decision will be treated as having effect from the day on which the refusal is made (unless the party then seeks permission from the Upper Tribunal to appeal the decision. In that event, if permission is refused, the decision is treated as having effect from the day on which the Upper Tribunal refuses the permission).

If permission for an appeal against the decision of the Tribunal is granted, then the effect of the decision and the Rent Relief Order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal. In the event that the decision is upheld, then the decision will be treated as having effect from the day on which the appeal is abandoned or so determined. The Rent Relief Order will be effective 28 days from the date 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.

Signed
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Chairperson

Date 12th January 2017

12/1/17



PRHP Re-inspection report



Property: "Addiewell" Glasgow Road, Sanquhar, DG4 6BZ

Ref no: PRHP/RT/16/0254

Surveyor: Mike Links

In Attendance: Ms Linda Frances Hurle (Tenant)

Weather: Sunny intervals with light showers.

Access: I re-inspected the property on Wednesday, 26th October 2016 at 10.30am

RSEO: The following works are required by the RSEO following on from the Inspection and Hearing on 8th September 2016.

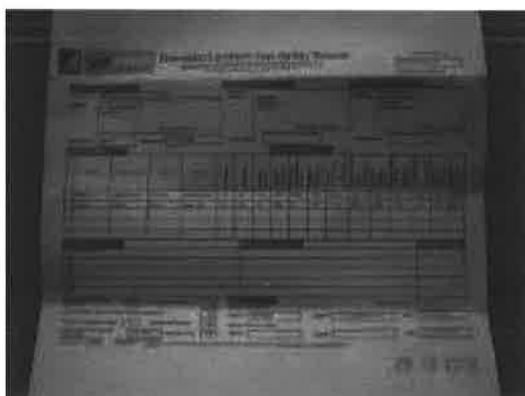
1. Repair or replace the defective roof covering of the garden shed.
2. Exhibit to the PRHP Administration current and compliant EICR and PAT certificates confirming that the electrical installations in the Property and the electric fire in the Property is safe and in proper working order and that the smoke and heat detectors are in proper working order and comply with the repairing standard.
3. Exhibit to the PRHP Administration a current and compliant gas safety certificate for the property.

Works in RSEO undertaken:

Item 3. Whilst a current and compliant gas safety certificate has not been exhibited to the PRHP Administration, Ms Hurle is in receipt of a copy gas safety certificate, a photograph of which is below.

The certificate was issued in June 2016 and the testing undertaken by Mr Mark Brogan of Gas Select Technical Services Ltd, 4d Auchingramont Rd Hamilton ML3 6JT. The company is Gas Safe certified No. 564145.

The certificate covers the central heating boiler and oven and advises both are safe to use.



Works in RSEO outstanding:

Item 1. The roof covering of the garden shed has not been repaired or replaced.



Item 2. No EICR or PAT certificates have been exhibited to the PRHP Administration.

Ms Hurle advises that Mr Hugh McCartney of Millar Electrics inspected the electric installation in September 2015 and placed a label on the cover of the consumer unit. See photograph. However, neither she or PRHP Administration has received current and compliant certification.



Recommendation:

Once the re-inspection report is forwarded to the Landlord and Tenant for comment the committee will then decide what further action is required.

Mike Links

Surveyor Member

Private Rented Housing Panel

Date: 26th October 2016

Housing and Property Chamber First-tier Tribunal for Scotland



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

RENT RELIEF ORDER: Housing (Scotland) Act 2006 Section 27

CHAMBER REF:PRHP/RT/16/0254

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Ms Linda Frances Hurlle residing at Addiewell, Glasgow Road, Sanquhar, DG4 6BZ ('the Tenant')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Mike Links (Ordinary Member).

NOTICE TO ("the Landlord")

Whereas in terms of its decision dated 12th January 2017, 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 dated 12th September 2016.

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 75% 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.

A landlord, tenant or third party applicant 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.

If a party seeks permission to appeal and this permission is refused, the decision will be treated as having effect from the day on which the refusal is made (unless the party then seeks permission from the Upper Tribunal to appeal the decision. In that

event, if permission is refused, the decision is treated as having effect from the day on which the Upper Tribunal refuses the permission).

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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.

Signed
Chairperson

Date 12th January 2017