

Housing and Property Chamber
First-tier Tribunal for Scotland



**MINUTE OF CONTINUATION TO A DETERMINATION FOLLOWING A DECISION
UNDER
SCHEDULE 2 PARA 7(3) OF HOUSING (SCOTLAND) ACT 2006**

**PROPERTY AT Flat 3/2 81/6 Causeyside Street, Paisley PA1 1YU (“the
property”)**

Case Reference PRHP/RP/16/0253

The Parties

Chestnutt Skeoch Limited, 30 East Main Street, Darvel, KA17 0HP (“The Landlord”)

Ms Toni Brown, formerly residing at Flat 3/2, 81/6 Causeyside Street, Paisley PA1 1YU (“The Tenant”)

Tribunal Members

Josephine Bonnar (Legal Member)

Andrew Taylor (Ordinary Member)

The Tenant having terminated the tenancy and vacated the property in October 2016 the application is treated as withdrawn in terms of Schedule 2 Paragraph 7(1) of Housing (Scotland) Act 2006. The Tribunal considered whether said application should be determined or whether it should be abandoned, all in terms of Schedule 2 Paragraph 7(3) of the said Act;

1. By application received on 21 July 2016 the Tenant applied to the Private Rented Housing Panel. The Tenant stated that the Landlord had failed to meet the repairing standard in relation to the property.
2. On 19 August 2016, a Notice of Referral was served on the parties advising them that the application was being referred to a Committee for a determination.
3. On 30 September 2016, the Committee inspected the property and a hearing took place at Wellington House, Wellington Street, Glasgow. Thereafter the Committee proceeded to issue a Repairing Standard Enforcement Order (RSEO) in relation to the property. By the date of service of the RSEO the Tenant had terminated the tenancy and vacated the property.
4. On 18 November 2016, the landlord lodged a summary application at Paisley Sheriff Court appealing against the decision of the Committee and seeking to

have the RSEO quashed.

5. On 1 December 2016, the PRHP transferred to the First-tier Tribunal for Scotland.
6. By interlocutor dated 15 May 2017 the Sheriff at Paisley granted the summary application. The Tenant had not defended the action. The Tribunal proceeded to revoke the RSEO.

The Tribunal formed the view that the nature of the Tenant's complaint was serious. No evidence has been presented by the Landlord that repairs have been carried out to rectify any defects. The Tribunal took the view that notwithstanding the withdrawal of the application there was sufficient concern that the matters complained of may not have been resolved so as to meet the repairing standard as required by the Act.

Accordingly, the Tribunal has decided to continue to determine the application.
J Bonnar

 Joséphine Bonnar
Legal member
30 July 2017

Housing and Property Chamber First-tier Tribunal for Scotland



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

Revocation of Repairing Standard Enforcement Order (“RSEO”): Housing (Scotland) Act 2006 Section 25

Chamber Ref: PRHP/RP/16/0253

Title number: REN 35718

Re: Property at Flat 3/2 81/6 Causeyside Street, Paisley PA1 1YU (“The Property”)

The Parties: -

Toni Brown, formerly residing at Flat 3/2 81/6 Causeyside Street, Paisley, (“the former Tenant”)

Chestnutt Skeoch Ltd, 30 East Main Street, Darvel, KA17 0HP (“the Landlord”)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) having determined on 30 July 2017 that the **Repairing Standard Enforcement Order** relative to the property dated 9 October 2016 requires to be revoked the said **Repairing Standard Enforcement Order is hereby revoked** with effect from the date of service of this Notice.

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.

In terms of Section 63 of the Act, 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 are executed by Josephine Bonnar, Solicitor at Motherwell on 30 July 2017 before this witness: -

G Bonnar

J Bonnar

_____ Witness

_____ Legal Member

Gerard Bonnar _____ Name in full

1 Carlton Place, Glasgow__Address

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

Chamber Ref: PRHP/RP/16/0253

Re: Property at Flat 3/2 81/6 Causeyside Street, Paisley PA1 1YU (“the Property”)

Title No: REN 35718

The Parties: -

Toni Brown, formerly residing at Flat 3/2 81/6 Causeyside Street, Paisley, PA1 1YU (“the former Tenant”)

Chestnutt Skeoch Ltd, 30 East Main Street, Darvel, KA17 0HP (“the Landlord”)

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 dated 9 October 2016 should be revoked, determined that the RSEO should be revoked. The Tribunal proceeded to issue a Revocation of the RSEO.

The Tribunal comprised: -

Mrs Josephine Bonnar, Legal Member

Mr Andrew Taylor, Ordinary Member

Background

1. By application received on 21 July 2016 the former 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 Landlord had failed to comply with his duty to ensure that the house meets the repairing standard. The tenant stated that the Landlord had

failed to ensure that (i) The house is wind and watertight and in all other respects reasonably fit for human habitation; (ii) 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; (iii) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, and (iv) Any fixtures fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order. Specifically, the tenant stated that the living room, bedroom and bathroom were affected by dampness and water ingress, a repair to a wall had not been finished leaving bare brickwork, there were leaks in the bathroom, a broken shower switch, a leak behind the washing machine, the windows were defective and the cooker controls faulty.

3. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant on 19 August 2016.
4. Following service of the Notice of Referral the Tenants representative, Ms Fiona Brown of Shelter Scotland confirmed that the Tenant would attend the hearing. Mr Kenneth Johnstone confirmed that he would attend the hearing on behalf of the Landlord which is a limited company. Neither party provided written representations in advance of the hearing. Thereafter on 21 and 22 September 2016 the Landlord made requests for the inspection and hearing to be postponed, The Committee considered the requests and refused same. The Landlord was advised that the inspection and hearing would proceed as scheduled.
5. The Private Rented Housing Committee inspected the property on the morning of 30 September 2016. The Tenant, her representative Ms Fiona Brown and her mother Ms Hazel Carr were present. The Landlord did not attend and was not represented.
6. Following the inspection of the property the Private Rented Housing Committee held a hearing at Wellington House, Wellington Street, Glasgow. The Tenant, her representative and her mother all attended and gave evidence. The Landlord did not attend and was not represented.
7. The Committee proceeded to issue a RSEO in relation to the property. In terms of the RSEO the Landlord was required :- (1) To instruct a suitably qualified contractor to investigate the cause of water penetration at the property and to carry out such repairs as are necessary to ensure that the roof and gable are wind and watertight. Thereafter to provide the Committee with documentary evidence that these works have been carried out, (2) To repair water damage to all affected walls and ceilings in the living room, bathroom and back bedroom and thereafter re-decorate and make good, (3) To repair or replace all windows to ensure that they are wind and watertight, in proper working order and capable of

being opened and closed easily for cleaning and ventilation, (4) To repair or replace the damaged wash hand basin taps in the bathroom, and (5) To replace the existing gas cooker temperature indicators to ensure that cooking temperatures can be correctly identified. The Landlord was required to complete the work within 8 weeks of service of the RSEO.

8. On 18 November 2016, the Landlord lodged a summary application at Paisley Sheriff Court under court reference PAI-B841-16. In terms of said application the Landlord sought to have the decision of the Committee quashed. The Tenant did not defend the proceedings.
9. On 1 December 2016, the PRHP transferred to the First-tier Tribunal for Scotland.
10. By interlocutor dated 15 May 2017 the Sheriff, on the motion of the Landlord, there being no appearance by or on behalf of the Tenant, granted the summary application.

Reason for decision

11. The Tribunal noted that the decision and RSEO relative to the property have been quashed by the Sheriff at Paisley in terms of interlocutor dated 15 May 2017.
12. The Tribunal accordingly took the view that the RSEO requires to be revoked and proceeded to issue a revocation of the RSEO.

Decision

13. The Tribunal accordingly determined that the RSEO requires to be revoked.
14. 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.

In terms of Section 63 of the Act, 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.

J Bonnar

Signed... ..Date 30 July 2017
Josephine Bonnar, Legal Member