

Housing and Property Chamber First-tier Tribunal for Scotland



VARIATION OF A REPAIRING STANDARD ENFORCEMENT ORDER

Parties : Miss Lisa Craig ("the Tenant's Representative"), on behalf of her mother Mrs. Mary Craig ("the Tenant"), residing at 33 Bon Accord Street, Shotts, ML7 4EA and Mr. Andrew Alexander Sneddon, residing at 9, Stanmore Gardens, Lanark ML11 7RZ ("the Landlord")

Property: 33 Bon Accord Street, Shotts, ML7 4EA registered in the Land Register of Scotland under Title Number LAN140092 ("the Property")

Chamber reference: prhp/rp/15/0262

Tribunal Members

Karen Moore (Chairperson)

Andrew Taylor (Surveyor Member)

NOTICE TO THE LANDLORD

Mr. Andrew Alexander Sneddon, residing at 9, Stanmore Gardens, Lanark ML11 7RZ.

Whereas :-

1. In terms of their decision dated 28 January 2016, the Private Rented Housing Committee determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord had failed to ensure that the Property is wind and watertight and otherwise reasonably fit human habitation, that the structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order, that the installations in the Property 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, that any fixtures and fittings provided by the Landlord under the tenancy are in a reasonable state of repair and working order and that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and imposed a Repairing Standard Enforcement Order dated 28 January 2016 ("the RSEO") requiring the Landlord to carry out certain works;

2. In terms of their decision dated 4 July 2016, the Private Rented Housing Committee determined that the Landlord should be given further time to comply with the RSEO and varied the RSEO;
3. In terms of their decision dated 16 November 2016, the Private Rented Housing Committee determined that the Landlord should be given further time to comply with the RSEO as varied the RSEO and
4. In terms of their decision dated 20 March 2017, the tribunal determined that the Landlord should be given further time to comply with the RSEO as varied, the tribunal now vary the RSEO further as follows:-

The Landlord must on or before 30 April 2017:-

1. Refurbish or replace all windows in the property (including rear porch) to ensure that they are wind and watertight, capable of opening, secure and in proper working order. Include all ancillary works, pointing, making good and decoration.
2. Carry out works to ensure that the electrical installation is safe, functional and in proper working order. These works should include the repairing or replacing the bathroom instantaneous shower.
3. Provide a Domestic Electrical Installation Certificate for the works carried out.
4. Engage a suitably qualified, and Gas Safe registered, heating engineer to repair or replace the gas fire and back boiler installation; repair and/or replacing radiators as necessary to ensure that the fire/back boiler and remainder of the heating installation is safe, functional and in proper working order.
5. Refurbish or replace existing cast iron gutters to the property and leave in

proper working order.

6. Carry out such works as are necessary to ensure that the external timber garage is wind watertight and fit for use, including replacing roof covering and timbers as necessary and refurbishing access doors and
7. Carry out all ancillary works, making good and decoration.

Appeal

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

Further, in terms of Section 28(1) of the Housing (Scotland) Act 2006, a landlord who, without reasonable excuse, fails to comply with a Repairing Standard Enforcement Order commits an offence liable on summary conviction to a fine not exceeding Level 3 of the standard scale, and in terms of Section 28(5) of that Act, also commits an offence if he or she enters into a tenancy or occupancy agreement in relation to a house at any time during which a Repairing Standard Enforcement Order has effect in relation to the house.

In Witness Whereof these presents printed on this and the preceding page are subscribed by Karen Moore, Chairperson of the tribunal, at Glasgow on 20 March 2017 before this witness, Norman William Moore, solicitor, Dunnswood House, 10 Dunnswood Road, Cumbernauld.

W Moore

K Moore

Witness

Chairperson

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: in terms of Section 25(1) of the Housing (Scotland) Act 2006 ("the Act")

Parties : Miss Lisa Craig ("the Tenant's Representative"), on behalf of her mother Mrs. Mary Craig ("the Tenant"), residing at 33 Bon Accord Street, Shotts, ML7 4EA and Mr. Andrew Alexander Sneddon, residing at 9, Stanmore Gardens, Lanark ML11 7RZ ("the Landlord")

Property: 33 Bon Accord Street, Shotts, ML7 4EA registered in the Land Register of Scotland under Title Number LAN140092 ("the Property")

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Tribunal Members

Karen Moore (Chairperson)

Andrew Taylor (Surveyor Member)

This determination should be read in conjunction with:-

Decision and Repairing Standard Enforcement Order dated 28 January 2016;
Decision and Variation of Repairing Standard Enforcement Order dated 7 July 2016
and Decision and Variation of Repairing Standard Enforcement Order dated 23 November 2016

Background

1. By application dated 25 September 2015, ("the Application"), the Tenant's Representative on behalf of the Tenant applied to the Private Rented Housing Panel (now the First-tier Tribunal) for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a), (b), (c), (d) and (f) of the Act. An Inspection and Hearing were held on 13 January 2016 at 10.00 a.m. and 11.00 a.m., respectively, following which the Committee (now the tribunal) determined that the Property did not meet the Repairing Standard in respect of the Act and imposed a Repairing Standard Enforcement Order ("RSEO").

2. A further Inspection and Hearing took place on 22 June 2016 following which the Committee (now the tribunal) again determined that the Property did not meet the Repairing Standard in respect of the Act and varied the RSEO.
3. A third Inspection took place on 9 November 2016 following which the Committee (now the tribunal) again determined that the Property did not meet the Repairing Standard in respect of the Act and varied the RSEO further as follows:-

"The Landlord must on or before 31 December 2016:-

1. *Refurbish or replace all windows in the property (including rear porch) to ensure that they are wind and watertight, capable of opening, secure and in proper working order. Include all ancillary works, pointing, making good and decoration.*
2. *Carry out a certificated electrical condition check (EICR) on the entire electrical installation of the property, internally and externally (including garage), by a suitably qualified and registered SELECT or NICEIC electrical contractor.*
3. *Carry out works as recommended by that check to ensure that the electrical installation is safe, functional and in proper working order. These works should include the repairing or replacing the kitchen hob and bathroom instantaneous shower.*
4. *Provide a Domestic Electrical Installation Certificate for the works carried out.*
5. *Engage a suitably qualified, and Gas Safe registered, heating engineer to repair or replace the gas fire and back boiler installation; repair and/or replacing radiators as necessary to ensure that the fire/back boiler and remainder of the heating installation is safe, functional and in proper working order.*
6. *Carry out a gas safety check and provide a gas safety certificate.*
7. *Refurbish or replace existing cast iron gutters to the property and leave in proper working order.*
8. *Carry out such works as are necessary to ensure that the external timber garage is wind watertight and fit for use, including replacing roof covering and timbers as necessary and refurbishing access doors.*
9. *Carry out all ancillary works, making good and decoration."*

4. A fourth Inspection took place on 7 February 2017 at which the Surveyor member attended alone and found that although some works required by the RSEO as varied had been carried out, some were outstanding. Following that Inspection, the Landlord submitted the EICR and the Gas Safety Certificates to the tribunal.

Findings of Fact

5. From the Inspection, the tribunal noted that although works continue to be carried out to the Property, the terms of the RSEO as varied have not been satisfied.

Decision of the tribunal

6. The tribunal's decision was based on the Inspection. The tribunal acknowledged that some of the works required by the RSEO as varied had been carried out and that there appeared to be a willingness on the part of the Landlord to carry out the remaining works. Although the tribunal was concerned that the Property still does not meet the Repairing Standard, the tribunal considered that, as works are being carried out, it is in best interests of the Tenant, that the Landlord be given a final opportunity to remedy matters. Accordingly, the tribunal determined to vary the RSEO to allow the Landlord until 30 April 2017 to complete the outstanding works.
7. The decision is unanimous.

Appeal

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.

Effect of Section 63

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

Karen Moore
Chairperson
20 March 2017