

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

---



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

**Notice of a decision to vary a Repairing Standard Enforcement Order (RSEO):  
Housing (Scotland) Act 2006 Section 25**

**Chamber Ref: FTS/HPC/RP/17/0014**

**Sasine ref: Ground with Easterknowe House thereon, part of lands and estate of Stobo excepted from subjects referred to and delineated and coloured pink in plan annexed to disposition in favour of Hugh Leopold Seymour and another recorded 4 August 1988 under exception from a larger part of Easterknowe in the Parish of Stobo referred to in disposition in favour of William Jay Ducas and another recorded 12 October 1990**

**Property at West Lodge, Stobo, Peebles, EH45 8NY  
("The Property")**

**The Parties:-**

**Miss Carol McMillan, residing at the Property  
("the Tenant")**

**Mr Hugh Seymour, Home Farm House, Stobo, Peebles, EH45 8NX  
("the Landlord")**

The Tribunal having determined on 27 July 2017 that the Repairing Standard Enforcement Order relative to the Property dated 18 May 2017 and served on 24 May 2017 should be varied, the said Repairing Standard Enforcement Order is hereby varied in the following respect:-

1. The period allowed for compliance has been extended to 31 August 2017.

**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 may 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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page are executed by Maurice O'Carroll, Advocate, Advocates Library, Parliament House, EH1 1RF, Legal Member and Chair of the Tribunal at Glasgow on 28 July 2017 before this witness:-

M O'Carroll

\_\_\_ Legal Member and Chair

\_\_\_ Witness

JANE KANE Name in full

1 ATLANTIC QUAY Address

45 ROBERTSON ST

GLASGOW G2 8JB.

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

---



**Statement relative to the Notice of the Decision to Vary**

**The Repairing Standard Enforcement Order**

**Ordered by the Tribunal on 27 July 2017**

**Re: Property at West Lodge, Stobo, Peebles, EH45 8NY ("the Property")**

**The Parties:-**

**Miss Carol McMillan, residing at the Property  
("the Tenant")**

**Mr Hugh Seymour, Home Farm House, Stobo, Peebles, EH45 8NX  
("the Landlord")**

**Tribunal: Mr Maurice O'Carroll (Legal Member and Chair)  
Mr Nick Allan (Ordinary Member) (Surveyor)**

### **Decision**

**The First-tier Tribunal unanimously, having made such enquiries as it saw fit for the purpose of determining whether the Repairing Standard Enforcement Order ("RSEO") relative to the House should be varied in terms of section 25(1)(a) of the Housing (Scotland) Act 2006 agreed that the RSEO should be varied.**

**1. The RSEO dated 18 May 2017 relative to the Property required the Landlord to:**

- (a) Repair or replace the porch to the Property to ensure that it is wind and water tight, safe and secure with a functioning entrance door, using appropriate modern materials to replace existing and to comply with any necessary building consents;**
- (b) Repair or replace the guttering to the Property to ensure that it does not result in water ingress into the porch as referred to in the said decision;**
- (c) Re-install the electrical installations in the porch area of the Property and ensure that they are safe and installed in accordance with current safety guidance;**
- (d) Unblock the drain to the rear of the Property adjoining the kitchen and carry out such further works as are reasonably necessary to safeguard against further recurrence, whether after obtaining a specialist report and implementing its recommendations or otherwise.**

2. The RSEO specified that these works required to be carried out and completed within two calendar months days of service of the RSEO. The deadline for compliance expired on 24 July 2017.
3. By letter dated 17 July 2017, the Landlord's agent wrote to the Tribunal to inform it that item (d) of the RSEO requirements had been completed but that further time was required in respect of items (a) to (c). Advice was sought in relation to works to the porch to the Property.
4. Comment was sought from the Tenant by the Tribunal which was provided by email on 24 July 2017. Whilst not formally objecting to the request for extension of the deadline for compliance, she requested that it be as short as possible because rainwater falling onto the external guttering was causing disturbance to her sleep.
5. In relation to advice sought on the design and construction of the porch further to requirement (a), that is entirely a matter for the Landlord. The Tribunal does not involve itself with detailed matters of choice of design and construction or the method by which compliance with the RSEO is effected. The Landlord is required to repair or replace the porch to an equivalent or better standard to what is there at present. It need not be an identical construction. The choice of construction and design should be appropriate to the Property. The terms of the RSEO that require to be met are as set out above. It will be a matter for the surveyor to assess whether those requirements have been met once works have been completed.

## **Decision**

6. In light of the difficulties faced by the Landlord in completing the works, the Tribunal decided to grant an additional period of time in order to allow the necessary works to be carried out. It considered that a further period of approximately one month to the end of August 2017 should be sufficient for that purpose and in order to meet the concerns of the Tenant.

## **Right of Appeal**

7. **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 may 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 of the 2006 Act**

8. 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.

**Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale.**

**A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.**

M O'Carroll

Chairperson

Date: 27 July 2017