

# **Housing and Property Chamber**

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

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### **Notice of a Decision to Vary a Repairing Standard Enforcement Order**

**Ordered by the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal")**

**Case Reference Number: PRHP/RP/14/0193**

**Re: 7 Muirfield Road, Cumbernauld G68 0EX ("the property")**

**Land Register Title No: DMB35676**

**The Parties:-**

**Mr Craig Adams, formerly residing at the property ("the tenant")**

**Mr Iain Ritchie and Mrs Elizabeth Ritchie, residing at the property ("the landlords")**

### **Repairing Standard Enforcement Order Against:**

Mr Iain Ritchie and Mrs Elizabeth Ritchie, residing at the property ("the landlords")

The Tribunal (formerly the Private Rented Housing Committee), having determined on 25 April 2017 that the Repairing Standard Enforcement Order relative to the property dated 1 July 2015 and varied on 20 August 2015 and 22 March 2016, should be varied, the Tribunal hereby varies the Repairing Standard Enforcement Order to the effect that the period allowed for the completion of the works required by the Repairing Standard Enforcement Order is extended until 25 October 2017.

### **Rights of Appeal**

1. 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.

2. 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 typewritten on this and the preceding page are signed by Sarah Frances O'Neill, Chairperson of the First-tier Tribunal for Scotland (Housing and Property Chamber), at Glasgow on the twenty-fifth day of April Two Thousand and Seventeen before this witness:

S O'Neill

\_\_\_\_\_ witness

\_\_\_\_\_ chairperson

MURRAY MORTON name in full

1 ATLANTIC QUAY Address

45 ROBERTSON ST

GLASGOW G2 8JB

CIVIL SERVANT Occupation

# **Housing and Property Chamber**

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

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**Statement of decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 25 of the Housing (Scotland) Act 2006**

**Case Reference Number: PRHP/RP/14/0193**

**Re: 7 Muirfield Road, Cumbernauld G68 0EX ("the property")**

**Land Register Title No: DMB35676**

**The Parties:-**

**Mr Craig Adams, formerly residing at the property ("the tenant")**

**Mr Iain Ritchie and Mrs Elizabeth Ritchie, residing at the property ("the landlords")**

### **Background**

1. The Private Rented Housing Committee ('the committee') issued a decision on 1 July 2015 requiring the landlords to comply with the Repairing Standard Enforcement Order (RSEO) relative to the property issued by the committee on 1 July 2015. The RSEO required the landlords to:
  1. Ensure that all windows in the property are thoroughly checked by a suitably qualified contractor, and carry out all necessary repairs in order to ensure that the windows are wind and water tight and in proper working order.
  2. Repair or replace the kitchen tap in order to ensure that it is functioning correctly and is in a reasonable state of repair and in proper working order.
  3. Repair or replace the flush mechanism on the downstairs toilet in order to ensure that it is in a reasonable state of repair and in proper working order.
  4. Ensure that the radiator at the back of the living/dining room is properly secured to the wall.
  5. Engage a suitably qualified, and Gas Safe registered, heating engineer to:

- i. carry out a thorough check of the heating installation within the house to ascertain whether this is working effectively
- ii. carry out any work which is necessary to ensure that the heating installation is in a reasonable state of repair and in proper working order.

The committee ordered that the works specified in the RSEO must be carried out and completed within the period of six weeks from the date of service of the RSEO.

2. On 20 August 2015, at the request of the landlords, the committee varied the RSEO to extend the period for the completion of the works until 21 September 2015. The surveyor member of the committee carried out a re-inspection of the property on 2 November 2015, and found that the landlords had complied with the terms of the RSEO in respect of the flush mechanism of the downstairs toilet only.
3. In his written response of 25 November 2015, Mr Ritchie stated that he had not carried out the window repairs due to financial constraints. The committee issued a direction to the landlords on 15 December 2015, stating that it was prepared to consider a further variation of the RSEO to extend the timescale for carrying out the window repairs, if this was requested by the landlords.
4. On 11 January 2015, an email was received from Mr Ritchie requesting an extension of 18-24 months to carry out the repair or replacement of the windows. He advised that all of the other issues had been addressed, and he was waiting for a new boiler to be installed.
5. The committee decided that it wished to re-inspect the property in order to establish whether the other works had been done, before agreeing to an extension to the deadline for compliance with the RSEO in respect of the windows. The surveyor member of the committee carried out a further re-inspection of the property on 11 March 2016. He found that:
  - The kitchen tap had been replaced
  - The radiator in the living room was adequately secure
  - The gas fired boiler situated in the utility room had been renewed. No certification was seen
  - No works had been undertaken to address the window repairs required.

6. Further to: 1) the landlords' request for an extension of time, and 2) its second re-inspection, the committee considered that in all the circumstances it would be reasonable to vary the RSEO to allow a further period as requested by the landlord for the completion of the window repairs/replacement. The committee accordingly varied the RSEO to extend the period for the completion of the works until 22 March 2017.
7. On 1 December 2016, the functions of the committee were transferred to the First-tier Tribunal for Scotland (Housing and Property Chamber).
8. On 27 March 2017, representations were received from Mr Ritchie stating that the works had not been completed, and requesting a variation of the RSEO to extend the time for completion of the works. He stated that the landlords were still accumulating funds to carry out the repairs. In an email of 5 April to the tribunal, he stated that he was awaiting the sale of a property which would release the funds to carry out the works, which should hopefully take a few months.
9. Having considered this request, and in light of the fact that the landlords themselves appear now to be resident in the property, the tribunal considers that in all the circumstances it would be reasonable to vary the RSEO to allow a further period as requested by the landlords for the completion of the window repairs/replacement. The tribunal accordingly varies the RSEO to extend the period for the completion of the works for a further period of **six months** until **25 October 2017**.
10. The tribunal notifies the landlords that if the works have not been completed by that date, it is likely to determine that the landlords have failed to comply with the Repairing Standard Enforcement Order.
11. If the tribunal determines that there has been such a failure to comply, it must serve notice of that failure on the local authority. In terms of section 28(1) and 28 (7) of the Housing (Scotland) Act 2006, 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.

### **Rights of Appeal**

1. 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.

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S O'Neill

Signed..

Chairperson

Date.....

25/4/17