

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: PRHP/RT/16/0259

Title Number: ELN1941

**Property at 1c Hawthorn Road, Prestonpans, EH32 9QW
("The Property")**

The Parties:-

**East Lothian Council, John Muir House, Haddington, EH41 3HA
(represented by Mr Ewan Ritchie, Licensing Team Leader)
("the Third Party Applicant")**

**Ms Nicola Gardner, residing at the Property
("the Tenant")**

**Mr Mohammed Tariq, 322 Albert Drive, Glasgow, G41 5DZ
("the Landlord")**

The Tribunal having determined on 16 December 2016 that the Repairing Standard Enforcement Order relative to the Property dated 4 April 2017 and served following a decision of the Tribunal on 29 March 2017 should be varied, the said Repairing Standard Enforcement Order is hereby varied with effect from the date of service of this Notice in the following respect:-

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

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.

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 Edinburgh on 4 May 2017 before this witness:-

M O'Carroll

Legal Member and Chair

Witness

TRACY WHITEHEAD

Name in full

10 PARLIAMENT HOUSE

Address

EDINBURGH EH1 1RF

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 4 May 2017

Re: Property at 1c Hawthorn Road, Prestonpans, EH32 9QW (“the Property”)

The Parties:

**East Lothian Council, John Muir House, Haddington, EH41 3HA
(represented by Mr Ewan Ritchie, Licensing Team Leader)
 (“the Third Party Applicant”)**

**Ms Nicola Gardner, residing at the Property
 (“the Tenant”)**

**Mr Mohammed Tariq, 322 Albert Drive, Glasgow, G41 5DZ
 (“the Landlord”)**

**Committee: Mr Maurice O'Carroll (Chairperson), Mr David Lawrie (Surveyor
 Member)**

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 4 April 2017 relative to the Property required the Landlord to:
 1. Obtain an up to date Electrical Installation Condition Report (“EICR”) from a suitably qualified and reputable electrician in standard industry format containing no C1 or C2 recommendations in respect of the Property;
 2. Implement any and all recommendations contained within the said EICR.
 3. Provide the Tribunal with a full and complete copy of the said EICR and a note of the identify and qualifications of the electrician who has carried out said Report.
 4. Obtain an up to date Gas Safety Certificate in respect of the Property carried out by a currently registered Gas Safe engineer.

5. Provide the Tribunal with a full and complete copy of the said Gas Safety Certificate and a note of the identity and proof of registration of the Gas Safe engineer providing the said Certificate.
2. The RSEO specified that these works required to be carried out and completed within 30 days of service of the RSEO. The deadline for compliance expires on 5 May 2017.
3. By email dated 26 April 2017, the Landlord wrote to the Tribunal to inform it that he had served a notice to quit on the tenant and was due to obtain vacant possession on 28 April 2017. In the meantime, he was unable to obtain access to carry out the necessary works. He therefore requested more time for the works to be carried out once he was able to obtain access to the Property.

Decision

7. 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 26 days should be sufficient for that purpose.

Right of Appeal

8. **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.**

Effect of section 63 of the 2006 Act

9. 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: 4 May 2017