

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) being the statutory successor to the Private Rented Housing Committee in terms of the First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (SSI 2016/337).

Notice of a decision to vary a Repairing Standard Enforcement Order (“RSEO”) under section 25 of the Housing (Scotland) Act 2006 (“the Act”).

Chamber Ref: PRHP/RP/16/0290

Property: Woodend Lodge, Wardhill, Gartocharn G83 8SB (“the property”)

The Parties:-

Miss Jennifer McDougall, Woodend Lodge, Wardhill, Gartocharn G83 8SB (“the tenant”)

Mr Mark Dinardo, Dinardo and Partners, Mirren Court (One) 119 Renfrew Road, Paisley PA3 4EA (“the landlord”)

Tribunal members: Simone Sweeney (legal member) Kingsley Bruce (surveyor member)

Variation of order:

1. The Tribunal varies the Repairing Standard Enforcement Order (“RSEO”) relative to the property dated 2nd December 2016 by altering the dates by which the landlord must comply with the terms of the RSEO.

2. The landlord is ordered to produce a report from a suitably qualified specialist no later than 22nd September 2017.
3. The landlord is required to carry out all works identified by the specialist in his report by 10th November 2017.

Background

4. The committee issued a RSEO and determination dated 2nd December 2016 to which reference is made.
5. The RSEO was varied by order of 21st March 2017 to which further reference is made.
6. The RSEO required the landlord to have the property inspected by a suitable qualified specialist and to produce a report of the inspection within 28 days of receipt of the order.
7. The RSEO also required the landlord to carry out all works identified by the specialist in his report.
8. The landlord failed to produce any report from a suitably qualified specialist.
9. The landlord failed to carry out any works to the property. This was confirmed by the surveyor within his report of March 2017 following re-inspection of the property.
10. The landlord requested that the tribunal arrange a third inspection at which he could be present and to convene a further hearing of evidence. This was granted and an inspection and hearing were arranged for Thursday 31st August 2017.

11. An inspection of the property went ahead at 11am on 31st August 2017. In attendance were the Tribunal, tribunal clerk, Alan Kerr and the landlord.
12. At commencement of the inspection the landlord admitted to the Tribunal that he had not undertaken any works nor complied with requirements of the RSEO.
13. The Tribunal found that there was no change to the areas of concern during the re-inspection and that the property remained in such a condition that it continued to fail to reach the repairing standard of the Act. The findings of the re-inspection of 31st August 2017 are set out within the surveyor's report of 7th September 2017, to which reference is made.

Hearing of 31st August 2017

14. A hearing went ahead at the Alexandria Community Centre, Main Street, Alexandria at 12 noon on 31st August. In attendance were the Tribunal, the Tribunal clerk and the landlord.
15. The landlord confirmed to the Tribunal that he had received copies of the RSEO, the variation order of the RSEO and the inspection reports of the property. The landlord submitted that this was the first experience which he had had of an application before the Tribunal and had misunderstood the procedure and what was required of him. He explained that since commencement of the application he had experienced various alleged issues with the Tribunal administration which were the subject of a separate complaint. The Tribunal chair advised the landlord that the purpose of the hearing was to consider the terms of the tenant's application of 8th September 2016. This was accepted by the landlord. He confirmed, also, that he was aware of the terms of the application and the specific issues of disrepair alleged by the former tenant.
16. The landlord was invited to respond to each part of the application. He referred to the allegations of disrepair with the wood burning stove and the fact that he had undertaken works to the fire in October 2016. This was

accepted by the Tribunal and had already been accepted within the statement of decision of 30th November 2016.

17. The Tribunal also accepted that the landlord had addressed the complaints around inadequate fire detection and that, too, was referred to in the earlier statement of decision.
18. The landlord submitted that he had had the property inspected by a specialist firm Richardson and Starling at 9.30am on 31st August, ahead of the Tribunal's inspection. A director of that company called Mr Morison had carried out the inspection. The findings of the inspection were that rising damp and condensation are currently in existence at the property. The specialist had suggested that the dampness could be eradicated within a working week and the landlord intended to instruct the specialist to proceed to do this. The landlord submitted that he had requested a report from the specialist and hoped to be able to produce this to the Tribunal within a week of the date of the hearing.
19. It was the landlord's view that failure to heat and ventilate adequately on the part of the current tenants had a direct impact on any condensation and dampness in evidence at the property. He suggested that sleeping could contribute to condensation in evidence within the bedrooms.
20. Reference was made to the windows within each of the two bedrooms. The landlord accepted that the windows had small opening casements and only one casement in each room could be opened. He accepted that this meant that there was a limited route for any moisture to escape. The surveyor enquired of the landlord what more the tenant to reduce condensation within the bedrooms beyond opening these two small windows. The landlord accepted that only two of the windows could open but that this was in keeping with the age and style of the property. The landlord accepted that a dehumidifier was in operation at the property at the time of the inspection on that date.

21. In response to whether or not there was adequate heating within the property to alleviate any dampness or condensation it was the landlord's position that the heating was adequate. He submitted that the property is fuelled with oil central heating from a boiler which is less than 5 years old. In addition there is the replacement stove burning fire which was fitted approximately one year ago.

22. When asked what the landlord intended to do now, the landlord gave an undertaking to the Tribunal that he intended to recover a report from Richardson and Starling following their inspection of 31st August. He confirmed that he would produce this to the Tribunal. Further, the landlord gave an undertaking to the Tribunal that the works recommended by Richardson and Starling to eradicate any evidence of dampness and condensation would be carried out at the property. The landlord reiterated the view of Mr Morison that the works should take a week to complete and undertook to have the works completed before winter 2017.

Reason for decision to vary the RSEO

23. Having provided an explanation for his failure to satisfy the terms of the RSEO previously and having provided an undertaking to now recover a specialist report and to carry out works to eradicate the dampness and condensation at the property, the Tribunal determines that it is reasonable for the timescales of the RSEO to be varied.

24. Accordingly, the landlord is ordered to produce a report from a suitably qualified specialist no later than 22nd September 2017 and ordered to carry out all works identified by the specialist in his report by 10th November 2017.

25. A landlord, tenant or third party 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.

26. 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.

27. In witness whereof these presents type written on this page and the preceding page are executed by Simone Sweeney, legal chairing member, Glasgow, 12th September 2017 before this witness:
S Sweeney

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.....
Keara Donnelly, Support Officer, Wheatley Group, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”)

Notice of a decision to vary a Repairing Standard Enforcement Order (“RSEO”) under section 25 of the Housing (Scotland) Act 2006 (“the Act”).

Chamber Ref: PRHP/RP/16/0290

Property: Woodend Lodge, Wardhill, Gartocharn G83 8SB (“the property”)

Title Number: DMB 85432

The Parties:-

Miss Jennifer McDougall, Woodend Lodge, Wardhill, Gartocharn G83 8SB (“the tenant”)

Mr Mark Dinardo, Dinardo and Partners, Mirren Court (One) 119 Renfrew Road, Paisley PA3 4EA (“the landlord”)

Variation of order:

1. The Tribunal varies the Repairing Standard Enforcement Order (“RSEO”) relative to the property dated 2nd December 2017 to the effect that reference to Gargowan Lodge is removed from the description of the subjects and the RSEO refers to Woodend Lodge, Gartocharn only.

Background:

2. The committee issued a RSEO and determination dated 2nd December 2016 to which reference is made.
3. The RSEO referred to the subjects as, *"Gargowan Lodge and Woodend Lodge, Gartocharn, Alexandria, G83 8SB."*
4. The application before the tribunal of 8th September 2016 was in connection with Woodend Lodge, Gartocharn, only. Gargowan Lodge is not part of the application.
5. The RSEO applies to the Woodend Lodge, Gartocharn only. No reference should be included to, Gargowan Lodge in the RSEO.
6. The description of the subjects of the RSEO should be amended to read:-

"All and Whole the subjects known as and forming Woodend Lodge, Gartocharn, Alexandria G83 8SB, all as shown hatched blue on the Title Plan relating to the after mentioned Land Certificate and being part and portion of subjects contained in Land Certificate Number DMB85432 (hereinafter referred to as "the house")."
7. Having identified the error, the tribunal determined that the terms of the RSEO be varied to remove any reference to Gargowan Lodge and to amend the description of the subjects all in terms of section 25 (1) (a) of the Act.
8. A landlord, tenant or third party 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.
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.

10. In witness whereof these presents type written on this page and the preceding page are executed by Simone Sweeney, legal chairing member of the tribunal at Glasgow on 21st March 2017 before this witness:-
S Sweeney

.....
legal chairing member X

.....
witness

EMMA DOLAN, MODERN APPRENTICE, BUSINESS SOLUTIONS,
WHEATLEY GROUP, WHEATLEY HOUSE, 25 COCHRANE STREET,
GLASGOW, G1 1HL.

Housing and Property Chamber

First-tier Tribunal for Scotland



The First-tier Tribunal for Scotland- Housing and Property Chamber Re-inspection Report

Property: WOODEND LODGE, GARTOCHARN, ALEXANDRIA, G83 8SB
Ref No: PRHP/RP/16/0290

Surveyor: Kingsley K Bruce, MRICS

Access:

I re-inspected the property at 11:00 on Thursday 31 August 2017.

The interior of the house was inspected visually, whilst standing at floor level within the various rooms, the exterior, whilst standing at ground level in the garden or on the street adjacent.

In Attendance:

My inspection was undertaken with Ms Simone Sweeney, Legal Member of the Tribunal, a Tribunal Clerk, Alan Kerr and the landlord Mr Mark Dinardo was present. The current tenant was not present, access was provided by a relative. who provided access and was present in the property throughout my inspection.

The property was apparently occupied, and fully furnished.

Weather:

Conditions were generally dry and bright at the time of my re-inspection.

Requirements of the Repairing Standard Enforcement Order (RSEO):

The RSEO dated 28 November 2016 required the landlord, as follows:

- (i) To have the property inspected by a suitably qualified specialist to establish the extent of the issue of condensation/damp conditions within the property; to identify the cause of the condensation/damp conditions; and to provide recommendations on which works are required to remedy the problem of condensation/damp conditions;
- (ii) To produce a report from the specialist to the PRHP with the findings of these investigations within 28 days of the date of receipt of this order;
- (iii) To carry out such works and repairs identified by the specialist in terms of his recommendations to eradicate all water damage and mould growth on all affected walls and flooring of the property.
- (iv) To renew or carry out such repairs as are necessary to the windows of the property to ensure that they are in a reasonable state of repair and in proper working order.

(v) To carry out all ancillary works necessitated by the above works to and make good all decoration.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within a period of 4 weeks from the date of service of this Notice.

Works required by the RSEO which have been undertaken:

A visual inspection of the property was undertaken, looking specifically at the items/areas which were subject of the application and the RSEO, as served on the Landlord.

There were no indications of works having been undertaken in compliance with the RSEO.

Following inspection, a hearing was held at 12pm on the same day.

Kingsley K Bruce, MRICS
First-tier Tribunal for Scotland- Housing and Property Chamber
7 September 2017

Photographs taken during re-inspection on 31 August 2017





