

Housing and Property Chamber First-tier Tribunal for Scotland



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

**Variation of Repairing Standard Enforcement Order
Housing (Scotland) Act 2006 Section 25**

Chamber Ref: PRHP/RP/16/0243

Re: Property at 11 Torburn Avenue, Giffnock, G46 7QZ (“the Property”)

Title No: REN 11002

The Parties:-

Rabbi Mordecai Bamburger 15 Belmont Drive, Giffnock; 38 Yisoh Bronco, Jerusalem, 95341, Israel; Glasgow Kollel, 86 Hillside Road, London (“the Landlord”)

Kelly Anne Murray, residing formerly at 11 Torburn Avenue, Giffnock and now c/o 9 Windmill Place, Newlands, Glasgow, (“the former Tenant”)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) having determined on 16 March 2017 that the **Repairing Standard Enforcement Order** relative to the property dated 30 September 2016 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 respects:-

1. The period allowed for the completion of the work required by the order is extended until 31 May 2017

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

A landlord, tenant or third party applicant 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.

In witness whereof these presents typewritten on this and the preceding page are executed by Josephine Bonnar, Solicitor, Chairperson of the tribunal at Motherwell on 16 March 2016 before this witness:-

____ G Bonnar _____ Witness

____ J Bonnar _____ Chairperson

Gerard Bonnar _____ Name in full

58 Port Dundas Road _____ Address
Glasgow

Housing and Property Chamber First-tier Tribunal for Scotland



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

Statement of Decision: Housing (Scotland) Act 2006 Section 25(1)(a)

Chamber Ref: PRHP/RP/16/0243

Re: Property at 11 Torburn Avenue, Giffnock, G46 7QZ (“the Property”)

Title No: REN 11002

The Parties:-

Kelly Anne Murray c/o 9 Windhall Place (“the former Tenant”)

Rabbi Mordecai Bamberger 15 Belmont Drive, Giffnock; Rabbi Mordecai Bamberger 38 Yisoh Bronco, Jerusalem, 95341, Israel; Rabbi Mordecai Bamberger, Glasgow Kollel, 86 Hillside Road, London (the Landlord(s))”

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber)(the Tribunal), having made such enquiries as it saw fit for the purposes of determining whether the Repairing Standard Enforcement Order (RSEO) relative to the property dated 30 September 2016 should be varied in terms of Section 25(1)(a) of the Housing (Scotland) Act 2006 (“the Act”) determined that the RSEO should be varied.

The Tribunal comprised:-

Mrs Josephine Bonnar, Chairperson

Mr Kingsley Bruce, Ordinary Member

Background

- 1. By application received on 11 July 2016 the former Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).**

2. The Application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with their duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:- the house is wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; any fixtures; the installations in the house 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; the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, and the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. Specifically the Tenant complained of the following:-

- (i) No smoke detector,
- (ii) No carbon monoxide detector,
- (iii) Damaged roof (house and rear extension),
- (iv) Defective and damaged external doors (front and back),
- (v) Holes in internal walls (porch, kitchen, downstairs toilet, wardrobe in bedroom),
- (vi) Damaged guttering, missing downpipe and damaged porch trim,
- (vii) Missing internal doors (porch, living room, kitchen, fitted wardrobe in bedroom),
- (viii) Broken light fittings (porch, kitchen, downstairs toilet, small bedroom, bathroom)
- (ix) Broken windows (porch, living room, downstairs bedroom, top of stairs, large bedroom)
- (x) Loose wires and loose/damaged sockets (porch, living room, kitchen, downstairs toilet, stairs, small bedroom)
- (xi) Dampness/water damage to walls and ceilings (living room, kitchen, dining room, toilet, downstairs bedroom, large bedroom)
- (xii) Damaged/defective kitchen units
- (xiii) Insecure shelf in living room
- (xiv) Damaged/defective radiators (kitchen, dining room, downstairs bedroom, bedrooms and bathroom)
- (xv) Cracked floor tiles (kitchen, downstairs bedroom)
- (xvi) Damaged skirting boards
- (xvii) Loose/ damaged plaster (downstairs toilet, stairs, large bedroom)
- (xviii) Defective boiler
- (xix) Damaged bannister
- (xx) Damaged window sills (stairs, large bedroom)
- (xxi) Missing floor boards (upstairs bedrooms)
- (xxii) Defective shower
- (xxiii) Blocked and defective toilet (bathroom)
- (xxiv) Leak from bathroom
- (xxv) Defective loft hatch
- (xxvi) Silicon in windows in living room and upstairs bedrooms requiring to be replaced

(xxvii) Plug socket above sink in kitchen in unsuitable location and wall above kitchen units in kitchen appears insecure. Crack in the wall between kitchen and dining room

(xxviii) Corroded pipe in downstairs toilet

(xxix) Bathroom floor damaged and wash hand basin insecure.

3. The Private Rented Housing Panel served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenants on 8 August 2016.
4. Following service of the Notice of Referral the Committee issued a Notice of Direction on 18 August 2016 requiring the Landlord to obtain and exhibit a certified electrical condition report and gas safety record in relation to the property by 9 September 2016. Neither document was produced by the Landlord
5. Prior to the inspection and hearing the Landlord made written representations to the Committee dated 6 September 2016. These stated that the Tenant had been issued with a Notice to Quit, that the tenant was not in occupation, that most of the damage had been caused by the tenant and her son including smashed windows, missing and broken doors, broken sockets and holes in walls. He further indicated that re-wiring and decoration was required. The Application form submitted by the Tenant included a covering letter from her representative which indicated that she had temporarily moved out of the property prior to submission of the application because of the condition of same but that the tenancy was continuing and rent by way of housing benefit was in payment. A letter from East Renfrewshire Council Benefits team was also provided which confirmed the position. The Tenant made no further representations in advance of the hearing but confirmed verbally by way of telephone call to the PRHP that she had received a Notice to Quit.
6. The Private Rented Housing Committee inspected the Property on the morning of 14 September 2016. The Landlord's new agent Neil Livingstone of Douglas Dixon Management was present. Neither the Landlord nor the Tenant were present during the inspection.
7. Following the inspection of the property the Private Rented Housing Committee held a hearing at Wellington House, 134-136 Wellington Street, Glasgow. Neither party nor their representatives attended the hearing.
8. Following the hearing the Committee proceeded to make a RSEO in relation to the property. A copy of the RSEO is attached to this decision. In terms of the RSEO the Landlord was required carry out the works required within 8 weeks.
9. On 7 December 2016 the Ordinary Member of the Tribunal attended at the property to carry out a re-inspection. He was unable to access the property

as no one was present to allow access. He was able to inspect the exterior of the property and to view part of the interior of the property through the window. He noted that the work required in terms of parts 1,3,4,5,6,9,18 and 19 of the Order had not been complied with. He was unable to establish if the remainder of the works had been carried out. A re-inspection report to this effect was prepared and issued to the Landlord. A further re-inspection was arranged for 16 February 2017 and the Ordinary Member again attended at the property on that date. Again no access was provided and only an inspection of the exterior and the interior viewed through a downstairs window was achieved. Again the Ordinary member noted that the work required in terms of the said parts of the RSEO was still outstanding but was unable to establish if the remainder of the work had been completed. The re-inspection report dated 16 February 2016 was again issued to the parties.

10. On 20 October 2016 the Landlord emailed the Tribunal to advise that the property was to undergo major refurbishment and would not be re-let until this had been carried out. On 19 December 2016 the Tribunal received representations from the Landlord dated 9 December 2017. By way of explanation for the failure to provide access on 7 December 2016 the Landlord indicated that he had not received notification of the re-inspection until 9 December 2016. He confirmed that the work required by the RSEO had not been completed. On 14 February 2017 a letter was emailed to the Tribunal from the Landlord confirming that the house was uninhabitable. On 2 March 2017 the Landlord emailed in response to the second re-inspection report advising that refurbishment work was now underway at the property and that it should be completed by May or June 2017. An extension of time to comply with the RSEO was sought.

Reason for decision

11. The Tribunal considered the Landlord's request for additional time to complete the work.
12. The Tribunal noted that the property is currently unoccupied, the tenant having vacated before the first inspection of the property in September 2016. The Tribunal is concerned that the Landlord has failed to allow access to the property on two occasions for re-inspections to be carried out and that as at the date of the second re-inspection on 16 February 2017 it appeared that no work had yet been carried out to the property. However, the Tribunal is aware that the work to be carried out to the property is extensive and that the Landlord has confirmed that the property will not be re-let until it is completed.
13. The Tribunal accordingly took the view that the RSEO should be varied by extending the time for completion of the work until 31 May 2017 and proceeded to issue a Variation of the RSEO.

Decision

14. The Tribunal accordingly determined that further time should be allowed for the work to be carried out and that the RSEO should be varied by extending the time for completion of the work until 31 May 2017.

15. The decision of the Tribunal was unanimous

Right of Appeal

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Signed..... **J Bonnar**Date 11 March 2017
Josephine Bonnar, Chairperson