

Housing and Property Chamber First-tier Tribunal for Scotland



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

RENT RELIEF ORDER

**RE: All and Whole the dwelling house known as 46a North Street, Bo'ness
EH51 0AG registered in the Land Register under Title no WLN2418**

The Parties:

Falkirk Council, Suite 2, Callendar Business Park, Falkirk FK1 1 XR ("the Third Party")

LHP Solutions Limited (Co No SC556001), 51 Clydesdale Street, Hamilton ML3 0DD ("the Landlord")

Reference number: FTS/HPC/RT/22/4292

NOTICE TO LPH SOLUTIONS LIMITED

Whereas in terms of its decision dated 6 July 2023, the Tribunal determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the House made by the Tribunal.

The Tribunal determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 25% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under section 64 of the said Act.

In terms of section 64 of the said Act, 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.

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are signed by John Miller McHugh, Chairperson of the Tribunal at Edinburgh on the Sixth day of July Two Thousand and Twenty Three in the presence of the undernoted witness:

J McHugh

Chairperson

G McHugh

Witness

GILLIAN MCHUGH

Witness Address

65 HAYMARKET TENACE
EDINBURGH
EH12 5DT

Housing and Property Chamber First-tier Tribunal for Scotland



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

**DECISION OF THE TRIBUNAL
UNDER SECTION 26
OF THE HOUSING (SCOTLAND) ACT 2006**

**RE: All and Whole the dwelling house known as 46a North Street, Bo'ness EH51
0AG registered in the Land Register under Title no WLN2418**

The Parties:

**Falkirk Council, Suite 2, Callendar Business Park, Falkirk FK1 1 XR ("the Third
Party")**

**LHP Solutions Limited (Co No SC556001), 51 Clydesdale Street, Hamilton ML3
0DD ("the Landlord")**

Reference number: FTS/HPC/RT/22/4292

Tribunal Members:

**John McHugh, Chairperson
Greig Adams, Ordinary (Surveyor) Member**

DECISION

The Tribunal having carried out a further inspection of the House determined that the work required by the Repairing Standard Enforcement Order dated 24 March 2023 ("the RSEO") had not been completed and resolved to issue a Rent Relief Order ("RRO").

The decision of the Tribunal was unanimous.

Background

The RSEO required the Landlord to complete the following work within 42 days of service of the RSEO:

1 To repair or replace the windows such that all windows in the property are capable of being opened and closed as designed; have no broken panes and are reasonably draughtproof.

2 To render the front door reasonably draughtproof.

3 To carry out decorative repairs to the water damaged areas of the hall cupboard and bedroom and to remove the mould present.

4 To repair or replace the handle on the door between the livingroom/kitchen and the hall with a functioning handle.

5 To repair the door between the livingroom/kitchen and the utility room such that it can be opened and closed with ease.

6 To replace the seal on the bath.

7 To carry out decorative remedial works after completing any repairs.

Reasons for the Decision

On 8 June 2023, the Tribunal carried out a re-inspection of the House.

At the re-inspection the following was noted:

1 a) Additional screw fixings were evident within the window frame acting as an informal sash stop preventing operation of the upper sashes. The upper sashes therefore do not operate as intended nor are they capable of being opened and closed. There was ad hoc evidence of localised compressible foam sealant strips evident. b) At the middle window of the bay window, the Landlord has provided a single pull handle fitted centrally to the lower part of the sash whilst 2 No. cable window restrictors have been fitted to either side of the window frame. c) The lower sashes are noted to still slam shut under self-weight and present a safety hazard. d) The provision of window restrictors is not a satisfactory solution and requires an individual on their own to lift the heavy and large sashes (taking into account that the weighting mechanism has failed providing no counterweight) whilst holding the sash in one hand then somehow attempting to clip the window restraints into position with the other hand. The windows remain incapable of being opened and closed as designed whilst the solution attempted remains unsatisfactory with safety concerns remaining. e) There remains a broken pane of glass to the bay window, whether there is safety film and/or safety tape is not a relevant consideration against the RSEO which outlies that there should be no broken panes. f) The windows despite any remedial works undertaken remain below requisite standards.

2. An unknown material has been fitted around the doorstep of the main entrance door except around the lock area. The material was loose and not adequately fitted. The thin material is not being placed under suitable compression whilst the strip is not fitted fully to the perimeter of the opening. Due to i) the strip material not being placed under adequate compression due to thickness and type utilised and ii) the strip material not fully encompassing the perimeter of the door; draught entry will be reasonably anticipated. Further draught proofing measures are required to meet requisite standards.

3. Decoration works within the Hall and Bedroom were adequately completed. There remains an area of staining within the Hall Store however, it appears that the Landlord was unable to access these parts to carry out any further decoration works due to tenant storage of items.

4. The pedestrian pass door incorporated lever handles to both sides of the door however, it appears that the internal handle from the hall store has been utilised, leaving the hall store without an internal handle. During operation of the lever handle, the latch was noted to stick behind the latch plate with the lever handle not returning to a horizontal position. The operation of the door remains impaired and requires further repair to meet requisite standards whilst a lever handle should also be provided to the internal face of the hall store.

5. The Landlord has added a small magnetic door catch adjacent to the keeper cut-out position (in the absence of full doorstops that would normally be provided whilst there are gaps between the top doorstep and the top edge of the door). In addition, the Landlord has submitted a statement stating that the door has been planed and fits the frame. The door latch is not able to engage to secure the door in its closed position given that the striker plate has been removed. The door is therefore able to be pushed open without operation of the lever handle given the absence of the striker plate and consequently failure of the latch to be restrained. The works progressed to date fail to adequately attend to this item.

6. Sealant works have been completed satisfactorily.

7. Given that all RSEO items have not been fully attended to, we are not able to confirm compliance of this item at this stage. As noted above, the parties are agreed that the Landlord was unable to complete decorative works in the hall cupboard and that those works should be excluded from the Tribunal's consideration.

The RSEO has not been complied with.

The Landlord has made representations in response to the re-inspection report. It acknowledges that the window repairs are only temporary and indicates that it needs further guidance from the Tribunal on both this and other aspects of the RSEO. It considers that no RRO should be made. It requests a hearing or further communication with the Tribunal so that guidance can be offered. The Tribunal has indicated that it is not in a position to offer further guidance. The Landlord raises apparent difficulties with access to carry out repairs and suggests that damage has been caused since the date of their works carried out in response to the RSEO, although we have seen no evidence which suggests the latter.

In its representations, the Third Party has suggested that an RRO reducing rent by 90% would be appropriate; the Tenant has suggested 80%.

Rent Relief Order

The works not completed are relatively minor but the effect of the condition of the windows and doors are having an adverse effect upon the Tenants' enjoyment of their occupation of the House. In particular, draughts make the House harder and more expensive to heat.

In the circumstances, the Tribunal considers that a Relief Order imposing a restriction of rent by 25% is appropriate.

Right of Appeal

Section 64 of the Act provides a right of appeal to a party aggrieved by the decision of the Tribunal 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.

J McHugh

John McHugh
Chairperson

Date: 6 July 2023