

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Revocation of Repairing Standard Enforcement Order (“RSEO”): Housing (Scotland) Act 2006 Section 25

Chamber reference: FTT/HPC/RT/18/42

Title Number: GLA87952

Property: Flat 2/1, 272 Allison Street, Govanhill, Glasgow G428HD (‘The House’)

The Parties:-

Malin Rostas, residing at Flat 2/1, 272 Allison Street, Govanhill, Glasgow (‘the Tenant’)

John Dundas, DRS Housing and Regeneration Services, Samaritan House 3rd Floor, 79 Coplaw Street, Govanhill, Glasgow G42 7JG (‘the Third Party’)

Mark Wright, residing at Flat 0/2 Dorchester Avenue, Glasgow, G12 0EE (‘the Landlord’)

Laura McLaughlin, McLaughlin & Co, Fife Renewables Innovation Centre, Ajax Way, Leven (‘the Landlord’s agent’)

Tribunal Members: Mary-Claire Kelly (Legal Member) and Sara Hesp (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) having determined on 20th November 2018 that the work required by the RSEO relative to the House served on 20th August 2018 is no longer necessary, the said RSEO is hereby revoked with effect from the date of service of this Notice.

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.

In terms of Section 63 of the Act, 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 type written on this and the preceding page(s) are executed by Mary-Claire Kelly, legal member of the Tribunal, at 91 Haymarket Terrace, Edinburgh EH12 5HE on 20th November 2018 in the presence of the undernoted witness:-

E Barnes

M C Kelly

witness

Legal Member

E Barnes

name in full

91 HAYMARKET ^{TERRACE}
Address

EDINBURGH

EH12 5HE

Housing and Property Chamber First-tier Tribunal for Scotland



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

Revocation Decision under section 25 of the Housing (Scotland) Act 2006

in connection with

Chamber reference: FTT/HPC/RT/18/42

Title Number: GLA87952

Property: Flat 2/1, 272 Allison Street, Govanhill, Glasgow G428HD ('The House')

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John Dundas, DRS Housing and Regeneration Services, Samaritan House 3rd Floor, 79 Coplaw Street, Govanhill, Glasgow G42 7JG ('the Third Party')

Mark Wright, residing at Flat 0/2 Dorchester Avenue, Glasgow, G12 0EE ('the Landlord')

Laura McLaughlin, McLaughlin & Co, Fife Renewables Innovation Centre, Ajax Way, Leven ("the Landlord's agent")

Tribunal Members: Mary-Claire Kelly (Legal Member) and Sara Hesp (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal") decided to revoke the Repairing Standard Enforcement Order dated 13th August and served on 20th August 2018.

The decision was unanimous.

Background and procedural history

1. By application received on 10th January 2018, the Third Party applied to the Tribunal for a determination of whether the Landlord had failed to comply with

the duties imposed by Section 24(1)(b) of the Housing (Scotland) Act 2006 ("the Act").

2. The application stated that the Third Party considered that the Landlord had failed to comply with the duty to ensure that the house meets the repairing standard and that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,

(b) 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,

(c) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,

(d) and furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed,

(f) the house has satisfactory provision for detection fires are for giving warning in the event of fire of suspected fire,

(g) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

3. The application by the Third Party specified that the said failure was established as follows:

- Bath poorly sealed
- Bathroom window has large gaps around the frame
- Holes in the bathroom floor
- Bathroom sink poorly sealed
- Kitchen door cupboards hanging off
- Kitchen window surround in poor state of repair
- Portion of skirting in the kitchen removed and holes along its length
- Gaps in the laminate flooring across the property - hall, lounge, bedroom
- No hard wired heat and smoke detection in kitchen
- No apparent hard wired smoke detector in hall or lounge

- No EICR provided.

4. The Tribunal inspected the house at 10am on 6th August 2018. The Landlord's agent was present at the inspection. Neither the Third Party nor the Tenant attended. The house was unoccupied at that time of the inspection.
5. Following the inspection, a hearing took place at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The Landlord's agent was present. The Third Party and Tenant did not attend.
6. A written decision dated 13th August 2018 was issued to the parties. In terms of the decision the Tribunal determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act and in particular that the Landlord had failed to ensure that:-
 - (a) the house is wind and water tight and in all other respects reasonably for human habitation,
 - (c) 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,
 - (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,
 - (e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed,
 - (f) the house has satisfactory provision for detection fires are for giving warning in the event of fire of suspected fire.
7. The Tribunal issued a repairing standard enforcement order ("RSEO") requiring the Landlord to carry out various works necessary for the purposes of ensuring that the house meets the repairing standard within a period of six weeks.
8. By email dated 1st September 2018 the Landlord's agents requested a review of the Tribunal's decision. The Landlord's agent also submitted a copy of an offer from Govanhill Housing Association to purchase the house. The Landlord sought to review the Tribunals decision on a number of grounds. The Tribunal refused the review request.

Reasons for decision to revoke the RSEO

9. During the course of the hearing on the application and in the review request the Landlord's agents had indicated that the Landlord intended to sell the property to Govanhill Housing Association. The Landlord's agents lodged a letter from Govanhill Housing Association dated 5th June 2018. The letter stated that the Housing Association had been carrying out a project to buy and improve properties for social rent and enquired as to whether the Landlord was interested in selling the house. The house had been identified as suitable for purchase by Govanhill Housing Association as part of the project.
10. As at the date of the hearing and the consideration of the review request no evidence had been provided by the Landlord to confirm that the property had been sold to Govanhill Housing Association.
11. The Tribunal noted in its review decision that in the event that the sale to Govanhill Housing Association completed then it may be appropriate to revoke the RSEO in terms of section 25 of the Act.
12. By email dated 31st October 2018 the Landlord's agents confirmed that the property had been sold to Govanhill Housing Association.
13. By letter dated 2nd November 2018 Govanhill Housing Association confirmed that as part of a Property Acquisition and Repair Project supported by the Scottish Government the house had been purchased by Govanhill Housing Association on 29th October 2018. Govanhill Housing Association confirmed that the house will be fully refurbished and will remain vacant until all works are completed and approved by Maintenance Housing Teams.
14. By email dated 14th September 2018 the Third Party stated that he was aware of the current acquisition programme in Govanhill and stated that if the house was purchased by Govanhill Housing Association they would undoubtedly bring it to a condition to meet the repairing standard prior to re-letting it.
15. The Tribunal are satisfied that the house has been purchased as part of a project to upgrade properties in the Govanhill area. The Tribunal are satisfied that full refurbishment works will be carried out and that the house will remain vacant until the said refurbishment works have been carried out.

16. The Tribunal are satisfied that in light of the purchase of the house by Govanhill Housing Association for the specific purpose of carrying out a full refurbishment the RSEO is no longer necessary.

Decision

17. The RSEO dated 13th August 2018 and served 20th August 2018 is revoked in terms of section 25 of the Act.

Right of Appeal

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.

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M C Kelly

Chairperson, 20th November 2018