

Housing and Property Chamber
First-tier Tribunal for Scotland



Variation of the Repairing Standard Enforcement Order
Ordered by the First-tier Tribunal for Scotland
(Housing and Property Chamber)
In terms of Section 25 Housing (Scotland) Act 2006

Chamber Ref: PRHP/RP/16/0361

Title no: GLA7091

Flat 2/2, 46, Landressy Place, Glasgow, G40 1HF ('The House')

The Parties:-

Zarina Ahmad residing at 8 Newmilns Garden, Kilmarnock, KA3 6FX ('the Landlord').

David Weir and Laurie Cowan residing formerly at Flat 2/2, 46, Landressy Place, Glasgow, G40 1HF ('the Tenants').

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Greig Adams (Ordinary Member).

NOTICE TO

The said Zarina Ahmad residing at 8 Newmilns Garden, Kilmarnock, KA3 6FX

The Tribunal in their decision dated 20th September 2017 have determined to vary the Repairing Standard Enforcement Order dated 28th March 2017.

Consequently the said Repairing Standard Enforcement Order is VARIED as follows:

First, the following items of the RSEO should be revoked as these items have been satisfactorily completed:

'2. Exhibit a valid and compliant Gas Safety Certificate.'

Second, Items 1 and 3 of the RSEO are varied to extend the time for completion of the works, as follows:

The Tribunal order that the works must be carried out and completed by 10th December 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.

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 and landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy agreement 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 typewritten on this and the preceding page are subscribed at Glasgow on 20th September 2017 by Jacqui Taylor, Chairperson of the Tribunal in the presence of the undernoted witness:

Signed..... **J Taylor** Date 20th September 2017
Chairperson

L Wardlowwitness

LAURA WARDLOW .

1, Atlantic Quay
Glasgow

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of the Decision of the Tribunal under sections 25 and 26(1) of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/RP/16/0361

Title no: GLA7091

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David Weir and Laurie Cowan residing formerly at Flat 2/2, 46, Landressy Place, Glasgow, G40 1HF ('the Tenants').

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Greig Adams (Ordinary Member).

Background

1. The Tribunal issued a Repairing Standard Enforcement Order dated 28th March 2017 ('RSEO') in respect of the Property which required the Landlord to :-

'1. Repair or replace the windows in the Property to render them wind and watertight.

2. Exhibit a valid and compliant Gas Safety Certificate and

3. Install:

3.1 One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.

3.2 One functioning smoke alarm in every circulation space, such as hallways and landings.

3.3 One heat alarm in every kitchen.

3.4 All alarms should be hardwired and interlinked and

3.5 One CO detector in every space containing a fixed combustion appliance.'

2. The Tribunal ordered that the works specified in the RSEO were to be carried out and completed by 30th May 2017.

Reinspection

3. On 2nd June 2017 Greig Adams, an Ordinary Member of the Tribunal, carried out an inspection of the Property to determine if the required works had been carried out. His reinspection report is annexed and executed as relative hereto. His report stated that item 2 of the RSEO had been complied with but items 1 and 3 of the RSEO were outstanding.

Hearing

4. On 5th September 2017 the Tribunal held a hearing at Wellington House, Wellington Street, Glasgow, G2 to determine if the terms of the RSEO had been complied with and if they had not been complied with if the RSEO should be varied. Zarina Ahmad, the Landlord attended. The Tenants had vacated the Property and did not attend.

The Landlord explained that she does not intend to relet the Property. In connection with the outstanding repairs she advised that she has three joiners lined up to give her quotations to carry out the repairs required to the windows and the heat detector had not been installed in the kitchen as the Tenants had refused to allow it to be fitted.

Decision and Reasons

5. The Tribunal determined that as the Tenants had vacated the Property it was reasonable to allow the Landlord additional time to have the required works completed and consequently the RSEO should be varied as follows.

First, the following works had been **satisfactorily completed** (the original numbering of the RSEO is used):

2. Exhibit a valid and compliant Gas Safety Certificate.

Second, in relation to items 1 and 3 of the RSEO the Tribunal determined that they would extend the time for completion of these works to 10th December 2017.

Right of Appeal

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.

If a party seeks permission to appeal and this permission is refused, the decision will be treated as having effect from the day on which the refusal is made (unless the party then seeks permission from the Upper Tribunal to appeal the decision. In that

event, if permission is refused, the decision is treated as having effect from the day on which the Upper Tribunal refuses the permission).

If an application for permission to appeal is received, then the Tribunal will notify you of this and the eventual outcome of that application and any subsequent appeal.

Signed **J Taylor**

Chairperson

Date 20th September 2017

Housing and Property Chamber First-tier Tribunal for Scotland



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

Re-Inspection Report

Chamber Ref: PRHP/RP/16/0361



**Flat 2/2
46 Landressy Place
Glasgow
G40 1HF
(‘The House’)**

Title no: GLA7091

The Parties:-

Zarina Ahmad residing at 8 Newmilns Garden, Kilmarnock, KA3 6FX (“the Landlord”)

David Weir and Laurie Cowan residing at Flat 2/2, 46, Landressy Place, Glasgow, G40 1HF (“the Tenant”)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) comprising: Jacqui Taylor (Legal Member) and Greig Adams (Ordinary Member).

Previous Inspection: The subject property was inspected on 15th March 2017 by The Tribunal and as a result, a Repairing Standard Enforcement Order was served.

Access: The re-inspection was undertaken on 2nd June 2017 at 10.30am by Mr Adams, Ordinary Member of the Tribunal. The inspection encompassed a documentation check of the Gas Safety Certificate, inspection of the recently



installed smoke detectors and CO detector prior to a close examination of the windows.

Mr Adams was accompanied by the Landlord and Tenant, who was present within the property throughout the inspection.

Purpose of Re-inspection: The purpose of the re-inspection was to investigate whether work required under the Repairing Standard Enforcement Order has been completed.

Works required under the Repairing Standard Enforcement Order (RSEO): The RSEO required the Landlord to:

1. Repair or replace the windows in the Property to render them wind and watertight.
2. Exhibit a valid and compliant Gas Safety Certificate and
3. Install:
 - 3.1 One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.
 - 3.2 One functioning smoke alarm in every circulation space, such as hallways and landings.
 - 3.3 One heat alarm in every kitchen.
 - 3.4 All alarms should be hardwired and interlinked and
 - 3.5 One CO detector in every space containing a fixed combustion appliance.

The tribunal ordered that the works specified in the Order must be carried out and completed by 30th May 2017.

Taking each matter individually, the re-inspection found:

1. Some remedial works to windows had been progressed by the Landlord extending to a basic overhaul of window units, isolated replacement of previously defective hinges, provision of angle brackets, replacement of a timber bead and isolated provision of sealant. The external timber beads and white glazing putty which are designed to perform a weatherseal around the perimeter of the glazing was still found to be defective with cracked and open/missing sections of the brittle and perished glazing putty identified whilst a number of timber beads remained loose with nail fixings protruding by some distance in various instances. Remedial sealant works recently undertaken were noted to be fairly minimal (predominantly undertaken internally) and have failed to render the windows wind and watertight having failed to address the defective glazing putties and bead arrangement externally.
2. The Landlord had obtained a valid and compliant Gas Safety Certificate.
3. The Landlord had arranged for hardwired and interlinked smoke detectors to be installed within the Living Room and circulation hallway however, no heat detector had been installed within the Kitchen as required by the RSEO. A Carbon Monoxide (CO) detector was present within the Kitchen, however the detector had not been ceiling or wall mounted. A hardwired



and interlinked heat detector is required within the Kitchen whilst the CO detector requires to be wall or ceiling mounted in an appropriate location.

In conclusion and on the basis of the re-inspection, the remedial works required in terms of the Order have not been completed to a satisfactory standard with the exception of providing a Gas Safety Certificate.

G Adams

Greig Adams BSc (Hons) FRICS C. Build E FCABE LETAPAEWE
Surveyor Member
First-tier Tribunal for Scotland (Housing and Property Chamber)



Appendix A – Re-Inspection Photographs



1. Close view of defective glazing putty providing weatherseal.



2. View of cracked and perished glazing putty and loose timber trim with pins projecting.



3. View of remedial works including angle brackets to previously open joints and sealant.



4. View of external timber bead and lack of appropriate sealant at junction with glazing.



5. View of remedial works completed, new timber bead, angle brackets etc.



6. Further view of loose timber trim to external glazing seal.



7. Close view of angle bracket and sealant remedial works.



8. Close view of glazing putties which are cracked and generally detached from timber beads..



9. New hinge ironmongery.