

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Statement of Decision: Housing (Scotland) Act 2006 Section 24(1)**

**Chamber Reference Number: FTS/HPC/RP/19/3389**

**Title Number DMB60299**

**26 Firthview Terrace, Brucehill, Dumbarton, G82 4DT (“the property”)**

**The Parties:**

**Jacqueline Clark and Graeme Hendry, 26 Firthview Terrace, Brucehill, Dumbarton, G82 4DT (“the Tenants”)**

**Gregory Beese, 10 Trough Lane, Watnall, Nottingham, NG16 1HR (“the Landlord”)**

**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 7 March 2020 should be varied in terms of section 25(1) of the Act, determined that the RSEO should be varied by extending the time for completion of the work until 24 July 2020.

**The Tribunal comprised: -**

**Mrs Josephine Bonnar, Legal Member**

**Mr Greig Adams, Ordinary Member**

## Background

1. By application dated 23 October 2019 the Tenants applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) 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 stated that the Tenants considered that the Landlord has failed to comply with his duty to ensure that the house meets the repairing standard. Specifically, the Tenants stated that the Landlord has failed to ensure that (i) The house is wind and watertight and in all other respects reasonably fit for human habitation, (ii) 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, (iii) Any fixtures, fittings and appliances supplied by the Landlord under the tenancy are in a reasonable state of repair and in proper working order and, (iv) The house does not meet the tolerable standard. Specifically, the Tenant complains of;- (1) All windows in the house leaking and draughty, (2) Cracks and damp patches in rendering, (3) Damaged/leaking gutters, (4) Dampness round front door porch (5) Cold, damp and draughts coming from defective fuse box door and draught proofing required, (6) Bottom hallway cold and draughty, (7) Living room – damp patches and fire has been condemned, (8) Dining room floor smells when washed, (9) Outdated kitchen, damaged and missing kickboards, problem with electrics in relation to hob and oven, (10) All sockets in property need checked and fixed, (11) Doors in living room need planned, (12) Hallway/stairs cold and draughty, no heater in hallway or stairs, (13) main bedroom cold, draughty, dampness, skirting board has holes, (14) Bathroom shower head rusty, bath needs re-sealed, toilet pan leaking, dampness on ceiling, no ventilation, bath panel cracked and hanging off, door not painted
4. The First-tier Tribunal for Scotland served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the parties on 15 January 2020. The parties were notified that an inspection would take place on 24 February 2020 at 10am and that a hearing would take place on 24 February 2020 at 11.30 at Glasgow Tribunal Centre, York Street, Glasgow.
5. The Tribunal inspected the property on 24 February 2020. The Landlord was present together with his representative, Chris Daniels. The Tenants were both present. Thereafter the Tribunal held a hearing at Glasgow Tribunal Centre, York Street, Glasgow.

The Landlord and both Tenants attended. The Landlord was represented by Mr Daniels.

6. Following the hearing the Tribunal proceeded to issue a RSEO. In terms of the RSEO the Landlord is required to, (i) Instruct a suitably qualified window contractor to inspect all windows at the property and carry out any necessary repairs to ensure that the property is wind and watertight, and that the windows are in proper working order; or to replace the windows, (ii) Repair or replace the defective gas fire, (iii) Instruct a suitably qualified dampness specialist to investigate the cause of dampness and condensation at the property and provide a report to the tribunal. Thereafter to carry out all recommended and necessary repairs to eradicate dampness and condensation at the property, (iv) Instruct a suitable contractor to repair all cracks to the render at the property, (v) Instruct a suitable contractor to repair the gutters at the property; or to replace the gutters, (vi) Replace missing kickboards and repair the damaged kitchen units and damaged kickboards in the kitchen of the property, (vii) Repair the damaged socket in the main bedroom of the property, and (viii) Replace the damaged bath seal, bath panel and shower hose in the bathroom of the property. The work was to be completed within 8 weeks of intimation of the RSEO.
7. By emails dated 18 and 19 May 2020 the Landlord asked for additional time to complete the work. He indicated that the external works had been completed but that Government restrictions due to COVID 19 had made it difficult to arrange for the interior work to be carried out. The Landlord asked for an extension to 7 July 2020. On 22 May 2020, the Tribunal sent an email to the Tenants asking for their submissions in relation to the request by 3 June 2020. No response was received.

### **Reason for decision**

8. The Tribunal considered the request for a variation of the RSEO.
9. The Tribunal notes that the RSEO was issued to the parties shortly before the Government restrictions were imposed due to Coronavirus and that the Landlord did not have sufficient time to carry out the required work before the lockdown began. The Tribunal also notes that the Landlord has indicated that the external works have been carried out, although this has not been verified by the Tenants. The Tribunal is satisfied that the Landlord may have had difficulty arranging for contractors to carry out the required work and that the Tenants may have been reluctant to provide access during

the lockdown. The Tribunal concludes that additional time should be allowed for completion of the work.

### **Decision**

10. The Tribunal determined that additional time should be allowed for completion of the work and that the RSEO should be varied by extending the time for completion of the work until 24 July 2020.

11. The decision of the Tribunal is unanimous

### **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.**

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.

J Bonnar

Signed.  ..... 16 June 2020  
Josephine Bonnar, Legal Member