

Housing and Property Chamber

First-tier Tribunal for Scotland



Variation of Repairing Standard Enforcement Order made in terms of Sections 25(1) and 25(2) of the Housing (Scotland) Act 2006

Property: 104 Jerviston Road, Glasgow G33 5QL (“the Property”/ “the house”)

Title No: GLA89205

Chamber Reference: FTS/HPC/RP/18/2109

Miss Stacey Tominey, sometime 104 Jerviston Road, Glasgow G33 5QL (“the Tenant”)

Mr James McRobb Crawford, 18 Tillycairn Street, Glasgow G33 5HB and Mr Gary Paul Drennan, 6 Belhaven Place, Mearnskirck, Glasgow G77 5JF (“the Landlord”)

Tribunal Members – George Clark (Legal Member/Chairperson) and Carol Jones (Ordinary Member/Surveyor)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), decided, in terms of Sections 25(1) and 25(2) of the Housing (Scotland) Act 2006, to vary the Repairing Standard Enforcement Order in respect of the Property made on 21 March 2019 (“the Order”), to allow the Landlord a period of three months from the date of intimation to the Parties of this Variation to complete the works required by the Order.

Background

On 21 March 2019, the Tribunal made a Repairing Standard Enforcement Order, requiring the Landlord:

- (1) to investigate the cause of stagnant water lying under the floor of the kitchen and thereafter to carry out such work as is necessary to remove the water and such repairs as are necessary to ensure the problem is rectified;
- (2) to carry out such work as is necessary to repair the kitchen ceiling and thereafter to redecorate the ceiling and all walls affected by water staining from a past leak from above;
- (3) to provide the Tribunal with a report from a suitably qualified Gas Safe registered engineer, confirming that the central heating boiler is in proper working order; and

(4) to carry out such work as is necessary to ensure the vinyl flooring in the kitchen is properly fitted and does not represent a tripping hazard.

The Tribunal ordered that the works required by this Order must be carried out within the period of four months from the date of service of the Order.

On 20 September 2019, the Landlord requested an extension of the time limit for completion of the works required by the Order, under explanation that the Tenant had vacated the Property on 9 July 2019 and that extensive works were being undertaken in addition to those required by the Order.

Reasons for Decision

As the Tenant had vacated the Property and it was unlet, the Tribunal was prepared to allow an extension. The Landlord had not specified the length of the period of extension that was being sought, but the Tribunal's view was that it was necessary to set a time limit for completion of the works required by the Order. The Tribunal considered that a period of three months was reasonable in all the circumstances.

Right of Appeal

In terms of section 46 of the Tribunals (Scotland) Act 2014, 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 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 subscribed by George Barrie Clark, Legal Member/Chair, at Lasswade on 14 October 2019, before this witness Valerie Elizabeth Jane Clark, Droman House, Lasswade, Midlothian.

G Clark

..... Legal Member/Chair

V Clark

..... Witness

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Reasons for Variation of Repairing Standard Enforcement Order made in terms of Sections 25(1) and 25(2) of the Housing (Scotland) Act 2006

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Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), decided, in terms of Sections 25(1) and 25(2) of the Housing (Scotland) Act 2006, to vary the Repairing Standard Enforcement Order in respect of the Property made on 21 March 2019 (“the Order”), to allow the Landlord a period of three months from the date of intimation to the Parties of this Variation to complete the works required by the Order.

Background

On 21 March 2019, the Tribunal made a Repairing Standard Enforcement Order, requiring the Landlord:

- (1) to investigate the cause of stagnant water lying under the floor of the kitchen and thereafter to carry out such work as is necessary to remove the water and such repairs as are necessary to ensure the problem is rectified;
- (2) to carry out such work as is necessary to repair the kitchen ceiling and thereafter to redecorate the ceiling and all walls affected by water staining from a past leak from above;
- (3) to provide the Tribunal with a report from a suitably qualified Gas Safe registered engineer, confirming that the central heating boiler is in proper working order; and
- (4) to carry out such work as is necessary to ensure the vinyl flooring in the kitchen is properly fitted and does not represent a tripping hazard.

The Tribunal ordered that the works required by this Order must be carried out within the period of four months from the date of service of the Order.

On 11 September 2019, the Landlord advised the Tribunal that the Tenant had vacated the Property on 9 July 2019. She had left behind many personal belongings but had left no forwarding address and the Landlord had been unable to contact her. The Landlord had moved them all into one room, but this had hindered the cleaning and redecoration of that room. The Property was unlet and would remain unlet for the foreseeable future. Substantial repairs outwith the requirements of the Order were now required, including complete redecoration.

The Landlord provided the Tribunal with an Invoice from NLK Plumbing which the Landlord stated related to the remedial work in fixing the cause of the stagnant water beneath the kitchen floor. Dynorod were scheduled to carry out the necessary water extraction work and chemical treatments on 17 September 2019. The replastering of the kitchen ceiling would be carried out after the work beneath the kitchen floor was completed, to allow safe access for ladders and equipment. A Gas Safe engineer was booked to attend the Property on 18 September 2019 to provide a report on the central heating boiler and also to comment on the position of the carbon monoxide monitor or to move it. The vinyl flooring in the kitchen had been replaced before the Tenant vacated the Property. The Landlord also provided confirmation from Lyon Electrical that the smoke detectors fitted in the Property meet the criteria for letting standards.

On 20 September 2019, the Landlord requested an extension of the time limit for completion of the works required by the Order, under explanation that the Tenant had vacated the Property on 9 July 2019 and that extensive works were being undertaken in addition to those required by the Order.

Reasons for Decision

As the Tenant had vacated the Property and it was unlet and the indications were that substantial works were instructed or were in the process of being carried out, the Tribunal was prepared to allow an extension. The Landlord had not specified the length of the period of extension that was being sought, but the Tribunal's view was that it was necessary to set a time limit for completion of the works required by the Order. The Tribunal considered that a period of three months was reasonable in all the circumstances.

The Decision of the Tribunal was unanimous.

Right of Appeal

In terms of section 46 of the Tribunals (Scotland) Act 2014, 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 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.

G Clark

..... Legal Member
14 October 2019