

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### **Determination of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

(Hereinafter referred to as “the tribunal”)

### **Statement of decision of the Tribunal under Section 25 of the Housing (Scotland) Act 2006**

**Case Reference Number: FTS/HPC/RP/18/3097**

**Re: 33B Glenacre Drive, Glasgow G45 9DT (“the house”)**

**Land Register Title No: GLA136346**

**The Parties:-**

**Ms Michelle Fenton, residing at the house (“the tenant”)**

**Mr Michael Duffy, 66 Firpark Road, Bishopbriggs, Glasgow G64 1SU (“the landlord”)**

**Tribunal Members – Sarah O'Neill (Legal Member) and Mike Links (Ordinary Member, Surveyor)**

**Repairing Standard Enforcement Order Against:**

**Mr Michael Duffy (“the landlord”)**

### **Background**

1. The tribunal issued a decision on 4 February 2019 requiring the landlord to comply with the Repairing Standard Enforcement Order (RSEO) relative to the property issued by the tribunal on the same date. The RSEO required the landlord to:
  1. Instruct a suitably qualified contractor to repair or replace:1) all of the windows in the house, including the vents and 2) the rear kitchen door, to ensure that all windows and the rear kitchen door are wind and watertight and in proper working order.
  2. Instruct a suitably qualified specialist surveyor to produce a dampness report in respect of the house, and to carry out any remedial works recommended in that report, in order to ensure that the house is wind

and watertight and in all other respects reasonably fit for human habitation. A copy of the specialist surveyor's report should also be copied to the tribunal within the timescale set out below.

3. Instruct a suitably qualified plumbing contractor to carry out an examination of the entire plumbing installation at the house, including the boiler/cylinder, to check the water purity within the house, and investigate the cause of the plumbing issues within the house, including a) the discoloured water in the bathroom and 2) the leak under the kitchen sink and c) any issues with the water going into the washing machine. A copy of the plumbing contractor's report should also be copied to the tribunal within the timescale set out below.
4. Carry out any works recommended by that contractor, in order to ensure that the water within the house is safe to use; and that the plumbing installation is in a reasonable state of repair and in proper working order.
5. Instruct a suitably qualified electrical contractor to repair or replace the lights under the kitchen cupboard, to ensure that they are in a reasonable state of repair and in proper working order.
6. Replace the dishwasher with a new dishwasher which is in a reasonable state of repair and in proper working order.
7. Replace the electric oven with a new oven which is in a reasonable state of repair and in proper working order.
8. On completion of all the above works, ensure that all affected finishes and decoration are restored to an acceptable standard.

The tribunal ordered that the works specified in the RSEO must be carried out and completed within 8 weeks from the date of service of the RSEO.

2. A letter received from the tenant's solicitor on 27 March 2019 confirmed that the works required at items 5, 6 and 7 of the RSEO had been carried out, but that the remaining works had not been completed. In a further letter dated 8 April 2019, the tenant's solicitor confirmed that new windows had been fitted at the house on 1 April.
3. The landlord requested an extension to the deadline for completion of the remaining works. On 16 April 2019, the tribunal varied the RSEO to extend the period for the completion of the works until 2 June 2019.

4. On 8 May 2019, a letter was received from the landlord, enclosing a copy of the dampness report which he had instructed. On 29 May 2019, a letter was received from the landlord requesting a further extension of time for the remaining works to be carried out. In a letter of 6 June, the tenant's solicitor confirmed that on 31 May a radiator had been installed in the living room, and thermostats fitted to other radiators, as recommended in the dampness report. The installation of extractor fans in the bathroom and kitchen, as also recommended by the dampness report, had not yet been carried out, however.
5. The tribunal varied the RSEO again on 11 June 2019 to extend the deadline for completion of the remaining works until 23 July 2019.
6. The ordinary (surveyor) member of the tribunal carried out a reinspection of the house on 12 August 2019. He found that items 1, 4, 5, 6 and 7 in the RSEO had been completed. With regard to item 2, he found that the kitchen fan appeared to be operating. The original bathroom extractor fan had been removed, but it had not yet been reinstated. Any necessary redecoration would also still require to be completed once the extractor fan had been installed.
7. Regarding item 3, a plumbing contractor's report had not been submitted, but repairs and renewals had been undertaken. The discoloured water in the bathroom had been rectified, the storage tank having been cleaned out. A new kitchen sink had been installed and the leak beneath repaired. However, despite inlet hoses to the washing machine having been adjusted, the tenant still complained that her washing and the machine had an unpleasant odour.
8. The tenant's representative confirmed to the tribunal in a letter dated 23 August 2019 that they were happy for the landlord to be given an extension of time to complete the remaining works. In a further letter of 30 August, they advised that the previous day, an electrician had made a hole in the bathroom wall and then fitted a grate/vent (but not a fan) in the bathroom.
7. On 20 September 2019, an email was received from the landlord, stating that he hoped the work would be completed very soon, and requesting an extension until the end of October to complete the outstanding works. In all the circumstances, the tribunal varies the RSEO to extend the period for the completion of the works until **31 October 2019**.
8. The tribunal notes, however, that the original deadline for compliance with the RSEO has now been extended on three occasions. The original deadline has now been extended for a total period of more than 6 months. If the works have not been completed by 31 October 2019, the tribunal is not minded to grant a

further extension. In that event, the tribunal will be required to decide whether to issue a failure to comply decision at that time.

### **Rights of Appeal**

9. 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.
  
10. 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.

Signed..... **S O'Neil** ..... Date..... 7/10/19.....

Sarah O'Neill, Chairperson

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### **Notice of a Decision to Vary a Repairing Standard Enforcement Order**

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

(Hereinafter referred to as “the tribunal”)

**Case Reference Number: FTS/HPC/RP/18/3097**

**Re: 33B Glenacre Drive, Glasgow G45 9DT (“the house”)**

**Land Register Title No: GLA136346**

**The Parties:-**

**Ms Michelle Fenton, residing at the house (“the tenant”)**

**Mr Michael Duffy, 66 Firpark Road, Bishopbriggs, Glasgow G64 1SU (“the landlord”)**

**Tribunal Members – Sarah O'Neill (Legal Member) and Mike Links (Ordinary Member, Surveyor)**

**Repairing Standard Enforcement Order Against:**

**Mr Michael Duffy (“the landlord”)**

The tribunal, having determined on 7 October 2019 that the Repairing Standard Enforcement Order relative to the house dated 4 February 2019 and varied on 16 April 2019 and 11 June 2019 should be varied again, the tribunal hereby varies the Repairing Standard Enforcement Order to the effect that the period allowed for the completion of the works required by the Repairing Standard Enforcement Order is extended until **31 October 2019**.

### **Rights 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 signed by Sarah Frances O'Neill, Chairperson of the First-tier Tribunal (Housing and Property Chamber), at Glasgow on the seventh day of October Two Thousand and Nineteen before this witness:

S Dunn

S O'Neil

\_\_\_\_\_ witness \_\_\_\_\_

\_\_\_\_\_ chairperson

Shannon Dunn

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