

Housing and Property Chamber

First-tier Tribunal for Scotland



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/RT/19/0765

Re: 32 Burnside Place, Carron, Falkirk FK2 8ER ("the house")

Land Register Title No: STG33168

The Parties:-

Falkirk Council, Private Sector Team, Suite 1, The Forum, Callendar Business Park, Falkirk FK1 1XR ("the third-party applicant")

Miss Kira Kerr, residing at the house ("the tenant")

Mrs Mary Wilson, residing at 3 Kersie Terrace, South Alloa FK7 7NJ and Mr Alan Wilson, 9 Johnstone Avenue, Stenhousemuir FK5 4JZ ("the landlords")

Tribunal Members – Sarah O'Neill (Legal Member) and Andrew Taylor (Ordinary Member, Surveyor)

Repairing Standard Enforcement Order Against:

Mrs Mary Wilson and Mr Alan Wilson (the landlords)

The tribunal, having determined on 7 October 2019 that the Repairing Standard Enforcement Order relative to the house dated 29 May 2019 should be varied, 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 for a further six weeks until 19 November 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

witness

S O'Neill

chairperson

Shannon Dunn

name in full

20 York Street

Address

Glasgow

G2 8AT

Housing and Property Chamber

First-tier Tribunal for Scotland



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/RT/19/0765

Re: 32 Burnside Place, Carron, Falkirk FK2 8ER (“the house”)

Land Register Title No: STG33168

The Parties:-

Falkirk Council, Private Sector Team, Suite 1, The Forum, Callendar Business Park, Falkirk FK1 1XR (“the third-party applicant”)

Miss Kira Kerr, formerly residing at the house (“the former tenant”)

Mrs Mary Wilson, residing at 3 Kersie Terrace, South Alloa FK7 7NJ and Mr Alan Wilson, 9 Johnstone Avenue, Stenhousemuir FK5 4JZ (“the landlords”)

Tribunal Members – Sarah O'Neill (Legal Member) and Andrew Taylor (Ordinary Member, Surveyor)

Repairing Standard Enforcement Order Against:

Mrs Mary Wilson and Mr Alan Wilson (the landlords)

Background

1. The tribunal issued a decision on 29 May 2019 requiring the landlords 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 landlords to:
 - 1) Engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and report on the operation and effectiveness of

the gas fired heating and hot water supply installation including boiler, all radiators, valves (including front bedroom radiator), programmers and thermostats and, additionally, on the living room gas fire.

- 2) Follow the recommendations of that report to ensure that the entire system is fully functioning, safe and in proper working order. On completion of the works provide a copy of the said report, any invoices for work carried out and a valid CP12 Gas Safety Certificate to the Tribunal, Third Party and Tenant.
- 3) Engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the entire electrical installation of the property. Follow the recommendations of that report to ensure that the entire system is safe and in proper working order. Provide a copy of the EICR and any invoices for work to the Tribunal, Third Party and Tenant.
- 4) Repair or replace the Living Room and Kitchen UPVC windows so that they are capable of being properly opened and closed, have intact seals and are wind and watertight.
- 5) Replace the handle to the Front Bedroom door and ensure that it is fully functioning.
- 6) Remove mould from the walls and ceiling in the Front Bedroom cupboard, apply a mould inhibitor and redecorate the interior of the cupboard.
- 7) Provide interlinked fire detection apparatus in accordance with the Housing (Scotland) Act 2006, (Modification of the Repairing Standard) Regulations 2019 and the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Order 2019.

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

2. The ordinary (surveyor) member of the tribunal carried out a re-inspection of the house on 6 September 2019. He found that item 7 of the RSEO had been completed. With regard to items 1 and 2, a gas safety certificate had been provided, but the living room fire was not included, and no report on the operation of the system had been provided. Regarding item 3, an EICR had been provided, but this showed the installation to be unsatisfactory. As regards item 4, the living room window had been repaired was capable of being opened and closed and was wind and watertight. The kitchen window had not however been repaired or replaced as required by the RSEO. He

found that items 5 and 6 had not been completed. Items 1- 6 therefore remained either wholly or partially outstanding.

3. On 12 September 2019, an email was received from Mrs Mary Wilson, one of the landlords, stating that there would be no electric or gas supply to the property until 14 October, and that she would then arrange for an electrician and gas engineer to come to the house to fix any issues.
4. The tribunal considered whether to grant an extension of time to the landlords to carry out the remaining works. It noted that the landlords had made some attempts to carry out the required works, although most remained outstanding to some degree. The tribunal also noted that the tenant had advised the tribunal by email dated 8 August 2019 that she was about to move out of the property, and the third party had confirmed that she had moved out. There would therefore be no prejudice to the tenant were the landlords to be given more time to complete the works.
5. The tribunal considers that in all the circumstances it would be reasonable to vary the RSEO to allow the landlords further time to comply with the RSEO. The tribunal accordingly varies the RSEO to extend the period for the completion of the works for a further six weeks until **19 November 2019**. If the outstanding works have not been completed by that date, the tribunal is likely to decide that there has been a failure to comply with the RSEO.

Rights of Appeal

6. 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.
7. 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'Neill**

.....Date..... 7/10/19

Sarah O'Neill, Chairperson