

# Housing and Property Chamber First-tier Tribunal for Scotland



**Second Variation of RSEO: Housing (Scotland) Act 2006 (“the Act”) Section 25**

**Chamber Ref: RP/15/0166**

**Title no: GLA84972**

**The Property: Flat 1/1, 18 Huntly Gardens, Glasgow G12 9AT**

## **The Parties:-**

**Steven Young, residing at the property (applicant and tenant)**

**and**

**Mr Duncan John McAdam, residing at 48 Fernlea, Bearsden G 51 1NB  
(landlord)**

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’) having determined that the **Repairing Standard Enforcement Order** relative to the house issued by the Private Rented Housing Committee dated 23 December 2015 as varied by Minute of Variation dated 18 June 2016 should be further varied, the said **Repairing Standard Enforcement Order is hereby varied** with effect from the date of service of this Notice in the following respect:-

1. The period allowed for the completion of the work required by the order is extended for a further period of six months from the date of service of this Notice.

Subsection 25(3) of the Housing (Scotland) Act 2006 applies in this case.

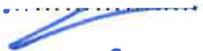
**A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

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 type written on this and the preceding page are executed as follows:

D Preston

.....Chairman  


20 DECEMBER 2016.....Date of Signing

Glasgow.....Place of Signing

G Hope

.....Witness  


GORDON HOPE.....Name

BOTHWELL HSE.....Address

CAIRO PARK.....

HAMILTON.....

ML3 0QA.....

# Housing and Property Chamber

## First-tier Tribunal for Scotland

---



**Statement of Reasons for Second Variation of RSEO: Section 25 and paragraph 6 of Schedule 2 of Housing (Scotland) Act 2006 ("the Act")**

**Chamber Ref: RP/15/0166**

**Title no: GLA84972**

**The Property: Flat 1/1, 18 Huntly Gardens, Glasgow G12 9AT**

### **The Parties:-**

**Steven Young, residing at the property** (applicant and tenant)

**and**

**Mr Duncan John McAdam, residing at 48 Fernlea, Bearsden G 51 1NB**  
(landlord)

**The First-tier Tribunal for Scotland (Housing and Property Chamber): David M Preston, Chairing Member.**

### **Decision:**

**The tribunal Hereby Varies the Repairing Standard Enforcement Order (RSEO) made by the Private Rented Housing Committee on 23 December 2015, as varied by Minute of Variation dated 18 June 2016 to the effect of extending the time within which the Works specified therein by a further period of six months from the date of service of this Notice of Variation.**

### **Reasons:**

1. Reference is made to the RSEO dated 23 December 2015 and the Minute of Variation dated 18 June 2016.
2. By email dated 28 July 2016, the tenant's representative, Mr Mallon of SAMH advised that he had withdrawn from acting and that he had been referred to Ms Anne Mills of Citizens Advice.
3. By email dated 18 October 2016, the landlord advised that he was making little progress with tenant's flat as he was not able to establish contact with the tenant. He said that he had written to the tenant on a number of occasions without response and had attempted to phone the tenant's mobile number. He had attended the flat but the tenant had not been present.

4. As the time limit imposed in the Minute of Variation had not expired, the Committee determined to take no further action at that time but the landlord was advised of the change in legislation in December 2015 which would enable him to make application to establish a Right of Entry to the property.
5. By email dated 19 October 2016 landlord advised that, having delivered a 24-hour notice requesting access to the flat, in the event of access not being provided he would make a Right of Entry application.
6. By email dated 29 November 2016, the landlord advised that the tenant had told him that he wanted no more contact and did not want any repairs or alterations to his property to be carried out and sought advice on what he should do. The landlord was once again told about his ability to make separate application to seek assistance to gain entry to the property and that he could seek an extension of time for the works required by the RSEO to be completed.
7. On 1 December 2016 the functions of the Private Rented Housing Panel were transferred to the First Tier Tribunal for Scotland (Housing Property Chamber).
8. By email dated 11 December 2016 the landlord sought an extension of time to carry out the necessary works as specified in the RSEO.
9. The tenant submitted a copy letter dated 12 December 2016 addressed to the landlord in which he stated that he was happy for essential repairs to be carried out within the flat, ie windows etc and confirmed that he did not want alterations ie central heating installed.
10. The Charing Member of the tribunal considered the landlord's application in the light of the terms of the RSEO as varied and the correspondence referred to above. The Charing Member noted the difficulties which the landlord said he had encountered in gaining access to the flat, but was mindful of the requirement in terms of the Act that property in the private rented sector must meet the repairing standard and that where an RSEO had been made it was incumbent upon the landlord, so far as possible to take all necessary and reasonable steps to implement the RSEO. It was open to the landlord to make a separate application to establish a right of entry to enable the work to be completed and unless and until such an application had been determined, the tribunal was not in a position to revoke or discharge the RSEO.
11. On the basis that the RSEO had provided a period of six months which was considered to be a reasonable time within which the work might be completed, the tribunal determined that in view of the landlord's inability to commence the work at a further period of that same time would be reasonable and accordingly decided to vary the RSEO to that effect.
12. With regards to the tenant's representations, the Charing Member was of the view that the RSEO required the landlord to obtain an energy performance

certificate (EPC) to identify what steps could reasonably be taken to ensure that the property is reasonably habitable and can be heated at reasonable cost to the occupant. The EPC recommended on page 2 of 5 at point 5 of the Recommended Measures high heat retention storage heaters and dual immersion cylinder and the tribunal would expect that this recommendation should be implemented.

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.

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.

D Preston

----- Chairing Member      30 December 2016-----Date