

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision: Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/17/0091

Title no/Sasines Description: BER7290

Property Address: Garden House, Ayton Castle, Eyemouth TD14 5RD (“the house”)

The Parties: Ms Moira Brown, Garden House, Ayton Castle, Eyemouth, TD14 5RD (“the tenant”)

Mr Brian Parsons and Mr Richard Syred (“the landlords”)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”), having made such enquiries as was appropriate for determining whether the landlords have complied with the Repairing Standard Enforcement Order (RSEO) in relation to the property concerned and taking account of the subsequent re-inspection of the property, determined that the landlords should be given an extension of three months for the period allowed for completion of the works required all in terms of Section 25(1) of the Housing (Scotland) Act 2006 (“the Act”).

Background

1. By way of decision dated 19 May 2017 the tribunal issued a determination that the landlords failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The tribunal had placed an RSEO on the property dated 9 June 2017 requiring the landlords:-
 - (a) to ensure the water system provided a water supply that was wholesome and that the work specified in the order must be carried out and completed within a period of six months from the date of service of the notice.
3. On 9 February 2018 a re-inspection of the property was carried out by Mrs Debbie Scott, Ordinary Member and Qualified Surveyor of the tribunal. The weather was fair and cold. The tenant remained in occupation. In attendance along with the Ordinary Member was the tenant and Mr Simon Jones, factor for the landlords.
4. In relation to the works to be undertaken a large cast iron pipe was dug out at the side of the house tracing about ten metres of lead pipe from there into the kitchen and the lead piping was replaced with plastic piping. Following upon these works Scottish Borders Council carried out further tests on 20 July 2017 and the results showed that the water once again did not comply with the current recommended levels of lead.

5. Following upon this the kitchen tap with Water Regulations Advisory Scheme (WRAS) approved tap and replacement of 6 brass elbows with plastic elbows was undertaken. A further water test was undertaken on 14 September 2017 which once again disclosed higher than acceptable levels of lead.
6. Thereafter the landlord appointed contractors in order to connect the house to the nearest mains supply. On 3 November 2017 the landlords instructed Borders Council to test the existing water supply at a sampling point where it entered into the Estate. The water tested clear at the sample point. The landlords decided to proceed with connecting the Garden House to the mains supply.
7. On the re-inspection date of 9 February 2017 it was noticed that works were underway to connect the house to the mains water supply. The mains water supply cannot be connected until Scottish Water inspect and authorise the installation.
8. Subsequent to the inspection taking place the tenant confirmed that on 16 February 2018 the house was connected to the mains water supply. That was confirmed on the same date by the landlords' legal representative.
9. The tribunal remains of the view that to confirm matters there does require to be a further analysis from Scottish Borders Council.
10. The tribunal is of the view that a variation of the RSEO can be made for the purpose simply of obtaining that analysis.

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.

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.

Mark Thorley

Signed

Chairperson

Date

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