

## Y TRIBIWNLYS EIDDO PRESWYL

### RESIDENTIAL PROPERTY TRIBUNAL (WALES)

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**Reference:** RPT/0012/10/22

**Property:** 217 Oxford Street, Pontycymmer, Bridgend, CF32 8DG

**Appellant:** Mr Simon Bryers

**Respondent:** Bridgend County Borough Council & Vale of Glamorgan Council

**COMMITTEE:** Tribunal Judge Jack Rostron  
Surveyor Roger Baynham  
Lay Member Dean Morris

**APPEARANCES FOR APPELLANT:** Appellant in person

**APPEARANCES FOR RESPONDENT:** Emma Aston, Neighbourhood Services Officer;  
Shared Regulatory Services.

### REASONS AND DECISION OF RESIDENTIAL PROPERTY TRIBUNAL

#### BACKGROUND

1. This is an appeal by the Landlord Mr Simon Bryers (the Appellant) against an Improvement Notice dated 9th September 2022 made under section 11 of the *Housing Act 2004* which requires works to commence by 22<sup>nd</sup> October 2022 and be completed by 22<sup>nd</sup> November 2022. It revokes a previous Notice) dated 29<sup>th</sup> June 2022, which was served by Shared Regulatory Services Bridgend County Borough Council and Vale of Glamorgan Council (the Respondent).
2. The subject Property according to the case summary provided by the Respondent consists of a pre-1920 mid-terrace house, which has two reception rooms and a kitchen to the ground floor. There are three bedrooms and bathroom on the first floor. The Property is occupied by a tenant, namely Ms Leah Burrows who resides there with her three children and has been since 2014.

#### RESPONDENTS STATEMENT OF CASE

3. On the 14th January 2021, following the receipt of a complaint by the tenant. Respondent undertook a physical inspection of the Property on 17th June 2021 and an Improvement Notice was served on 29th June 2021 although this was revoked on 9th September 2021 and replaced with the current Notice. This was followed by extensive correspondence between the Appellant and Respondent concerning hazards identified and implementation of necessary repairs.

4. The Respondent identified deficiencies at the Property as follows:

“Evidence of water ingress to the living room wall and the kitchen wall. The wall is damp confirmed by protimeter. The plaster is blistered. The whole of the external render to the rear elevation of the Property has cracks and is blown. There is vegetation growing out of the render.

Hazard(s) that deficiencies (above) contribute to

Damp and mould growth - Category 1 Hazard  
Excess cold - Category 1 Hazard”.

5. The repairs identified by the Respondent at the Property are as follows:

“Carry out the necessary works to remedy the damp to the kitchen and living room. Hack off any loose, damaged or perished areas of plaster and re-plaster to match the existing finish. Make good any works disturbed”.

#### **APPELLANTS’ STATEMENT OF CASE**

6. The Appellants’ statement of case is essentially contained in the witness statement of Mr Simon Bryers dated 24th November 2022, the salient relevant matters being summarised below in paragraphs 7 to 13.

7. That the service of a Hazard Awareness Notice is considered more appropriate than an Improvement Notice.

8. The Improvement Notice be suspended until the tenant has fully co-operated with the Appellant and his contractors in enabling the required works be carried out.

9. That the Improvement Notice is suspended until an Energy Company Obligation grant is made available.

10. The hazards identified are the result of negligence or excessive damage beyond fair/reasonable wear and tear by the tenant.

11. The Appellant wishes to undertake the specified repairs but can not do so within the time limit set out in the Improvement Notice. It is asserted the lack of available trades people to undertake the work makes it difficult to undertake the works as required in the timescale required.
12. Financial difficulties including a bankruptcy charge noted at the Land Registry title register of the Property.
13. That if the requirements of Improvement Notice are upheld by the Residential Property Tribunal [the 'Tribunal'] the start date for the works to be carried out are extended to 30<sup>th</sup> June 2023 (or six months after the Tribunal's decision whatever is the later) and completion by 31<sup>st</sup> August 2023 (or 8 months after the Tribunal decision date, whichever is the later).

## **THE LAW**

14. An Improvement Notice is made under section 11 of the *Housing Act 2004* which states:
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  - (1) If-
    - (a) The local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
    - (b) No management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,Serving an improvement notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).
  - (2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned is specified in the notice in accordance with subsections (3) to (5) and section 13.
  - (3) ....

## **INSPECTION AND HEARING**

15. The Tribunal's surveyor and lay person assembled at 10.30am to undertake an inspection of the Property. The Tribunal was accompanied by the tenant Ms Leah Burrows who lived in the Property with her young children. The Applicant was informed of the date and time of the inspection but did not attend. The tenant said that she had co-operated fully with the Applicant in previous arrangements for contractors to undertake repairs, but they did not turn up. She said she would similarly make any arrangements necessary in the future for the Applicants contractors to undertake the works.
16. The Tribunal examined the elements of the Property identified as deficient and confirmed the need for the works specified in the Improvement Notice needed to be carried out within a reasonable time frame.

17. The hearing was held virtually at 12.00pm 24<sup>th</sup> February 2023 and attended by members of the Tribunal and the Respondents' representative and the Appellant in person.
18. The Appellant did not wish to add anything of significance to their written submissions save that they felt the time limit for compliance with the Improvement Notice would be difficult to comply with and that historical attempts to carry out repairs had been prevented by lack of co-operation from the tenant.
19. The Respondent similarly did not wish to add anything of significance to her written submissions save that she felt there was a lack of co-operation on the part of the Appellant to undertake the necessary works specified in the Improvement Notice.

## **DECISION**

20. Following physical inspection of the Property. The Tribunal considered that the deficiencies identified in the Improvement Notice and works required were reasonable.
21. The Tribunal considered the written and oral evidence provided by the Appellant and Respondent. Regarding the appropriateness of imposing an Improvement Notice rather than a Hazard Awareness Notice. The state of disrepair identified by the inspection was considered to be at a level of seriousness to make a Hazard Awareness Notice inappropriate and Improvement Notice appropriate.
22. The Tribunal did not accept the Appellants' suggestion that delays in undertaking the necessary repairs was hindered by a lack of co-operation from the tenant because of the tenants statements made in paragraph 15 above.
23. The Applicants stated circumstances in terms of; difficulty is finding tradesmen to carry out the works, financial difficulties and uncertainty of securing grant was considered by the Tribunal. The suggested difficulty of finding tradesmen to undertake the works was not accepted. On balance, because of the seriousness of the identified deficiencies, it felt that the necessary works needed to be carried out in an appropriate timescale. The tenant had a young family. It was considered important that the works were carried out before the on set of cold weather during winter months.

## **ORDER**

24. The Tribunal varies the Improvement Notice to the extent only that the start date for carrying out all the required works is extended to 1 June 2023 with completion by 31 July 2023.

Either party may appeal this decision to the Upper Tribunal. An application for permission to appeal should in the first instance be made to this Tribunal within 21 days of the date upon which this decision was made.

DATED this 13<sup>th</sup> day of March 2023

Tribunal Judge  
J Rostron