

Y TRIBIWNLYS EIDDO PRESWYL

RESIDENTIAL PROPERTY TRIBUNAL (WALES)

Oak House, Cleppa Park, Celtic Springs, Newport, NP10 8BD.

Telephone 0300 025 2777. Email: rpt@gov.wales

Reference: RPT/0006/06/23

Property: 9 Ropewalk Road Llanelli SA15 2AG

Appellant: Pullman Properties Limited (Joseph Waite - Director)

Respondent: Carmarthenshire County Council

COMMITTEE: Tribunal Judge Price
Roger Baynham (Surveyor Member)
Mr Dean Morris (Lay Member)

APPEARANCES FOR APPELLANT: Joseph Waite for the Appellant

APPEARANCES FOR RESPONDENT: Mr Gareth Williams Housing Services Manager
Mr. Jonathan Williams Environmental Health Practitioner

REASONS AND DECISION OF RESIDENTIAL PROPERTY TRIBUNAL

BACKGROUND

1. This is an appeal by the Landlord Pullman Properties ("the Appellant") against an Improvement Notice dated 2nd June 2023 made under section 11 of the *Housing Act 2004* which required various works to commence within different time periods, the shortest time frame applied is one week and the longest is 12 weeks.
2. The property is occupied by a family with children.

RESPONDENT'S STATEMENT OF CASE

3. This is set out in the witness evidence of Jonathan Williams dated 13 October 2023.
4. In summary, the Respondent started receiving complaints about the condition of the property in April 2022.
5. An informal schedule of works was issued to the Appellant on 16th June 2022, that appears in the hearing bundle as exhibit JW12 to the witness evidence of Mr J Williams.

6. In September 2022 the Respondent received a further complaint regarding the condition of the property and the lack of progress in respect of the schedule of works. A formal inspection of the property, under the Housing Act 2004 took place on 19th January 2023. The Appellant attended and provided the Respondent with an explanation that it was proving difficult to secure tradespeople to undertake the works.
7. The Respondent afforded the Landlord an opportunity to undertake the works. The Respondent's request for a progress report was emailed to the Appellant on 22 February 2022 and a reply was received on 13th April 2023. The reply again stated that securing suitable tradespeople had been difficult.
8. On 18th April 2023 the Respondent provided the Appellant with a Buy with Confidence Scheme register of Tradespeople. The tenant informed the Respondent on 25th May 2023 that no works had been completed.
9. A further inspection was undertaken on 31 May 2023 pursuant to the Housing Act 2004. The Appellant did not attend. The Improvement Notice was issued on 2 June 2023.

APPELLANTS' STATEMENT OF CASE

10. The Appellants' statement of case is essentially contained in the witness statement of Mr Joseph Waite dated 29th September 2023, which is summarised below.
11. That undertaking the necessary works was delayed due to the difficulty securing tradespeople.
12. That the delay to the work being undertaken to the left external wall (front elevation) of the property was delayed due to the tenant not complying with requests to clear the rubbish from the area.
13. That the Appellant did not have adequate notice of the inspection that was undertaken on 31 May 2023, due to the bank holiday weekend. Due to the bank holiday weekend, the Appellant had less than 24 hours' notice of the inspection.
14. Mr Waite retracted his submission regarding the necessity of the notice pursuant to the HHSRS. He thought that the Tribunal would be looking at the condition of the property as it was at the date of the hearing (14 December 2023), not the date of the service of the Notice (2 June 2023). Once his understanding was corrected, he retracted his submissions on this point.
15. Mr Waite asserted that the improvement notice is unfair due to the following reasons (using the paragraphing that is applied in Schedule 2 of the Improvement Notice dated 2 June 2023):

- (i) Item 1- There is no legal basis to insist that windows are double glazed, therefore despite the fact a windowpane may be blown/removed then there is no contravention as long as there is adequate glazing. Further, the severity of harm due to excess cold is no different to the national average.
- (ii) Item 2 - As above
- (iii) Item 3- these internal works to the left front bedroom are dependent upon the external wall being repaired to remove the damp.
- (iv) Item 4 – same response as item 3
- (v) Item 5- unaware of the corrosion to the radiator in the upstairs bathroom, the Appellant is unclear how this falls foul of the Housing Health and Safety Rating System (HHSRS) and the Respondent confirms that the risk of harm from this item of works does not differ from the national average.
- (vi) Item 6 – replace splashbacks to the hand basin in the bathroom. Appellant accepts these works.
- (vii) Item 7 – prepare plaster boarded ceiling in the middle living room and utility room for plaster - these will be completed as part of other internal works. It is accepted that this work will be more aesthetically pleasing but not that it amounts to a hazard and further it has been confirmed that the harm from this item of works would not differ from the national average.
- (viii) Item 8 – remove laminate flooring in kitchen, open plan dining room and utility room and replace with non-impervious flooring that is sealed, easily cleaned and is level and true upon completion. This will be completed once all water ingress has been resolved. This item of works does not differ from the national average.
- (ix) Item 9 – the provision of additional electrical sockets in the four rooms is not a requirement in law.
- (x) Item 10 – This socket does not have any wires attached, it has been completely disabled, an electrical certificate is unnecessary in the circumstances.
- (xi) Item 11 – this work has been undertaken, there is one outstanding matter to the upstairs and upon completion of this the certificate can be issued.
- (xii) Item 12 - The carpet has been removed. The tenant intends to sand and varnish it and the Respondent will supply the materials.
- (xiii) Item 13 – this work is outstanding.
- (xiv) Item 14 – the decking has been removed and is off site.

- (xv) Item 15 – outstanding. The Appellant asserted that as repairs had been made to the external side wall then this negated the need for an opinion from a damp proof specialist.

THE LAW

16. An Improvement Notice is made under section 11 of the *Housing Act 2004* which states:

- (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)

17.

Section 239 (5) of the Housing Act 2004 states :

Before entering any premises in exercise of the power conferred by subsection (3), the authorised person or proper officer must have given at least 24 hours' notice of his intention to do so—

- (a) *to the owner of the premises (if known), and*
(b) *to the occupier (if any)*

INSPECTION AND HEARING

18. The Tribunal's Judge, Surveyor and Lay Member met at 11 am on 5th December 2023 to undertake an inspection of the Property. The Tribunal was accompanied by Mr Joseph Waite around the property. The tenant was also at home but did not accompany the Tribunal with its inspection. The Respondent was informed of the date and time of the inspection but did not attend.

19. The property comprises a semi-detached end of terrace two storey house in a street of similar type properties. The house, which was built, circa, 1890 has brick exterior walls which have been cement rendered, a tiled roof, and double glazed Upvc windows and doors. It has the benefit of a rear conservatory and gas central heating.

20. The house does not have a forecourt and the front door opens directly onto the pavement. The accommodation on the ground floor consists of a recessed entrance

porch, entrance hall with stairs leading to the first floor, a lounge and living room separated by sliding glass door, a conservatory which also incorporates the kitchen having a sink unit and base and wall units, and a utility room.

21. On the first floor there is a landing, two double bedrooms, a boxroom and a bathroom having a corner bath, separate shower, wash hand basin and a w/c.
22. The rear garden which is enclosed consists of paved and grassed areas, a metal garden shed and there are double wooden doors leading to a rear lane.
23. The hearing was held in person on 7th December 2023, at 10am and attended by members of the Tribunal, the Respondents and Appellant.

DECISION

24. The Tribunal did not accept the Appellant's contention that he did not have adequate notice of the inspection on 31st May 2023. The Tribunal accept the evidence of the Respondent, as set out at Part A of the Respondent's statement of case in response to the appeal, and that Section 239 of the Housing Act 2004 was complied with.
25. On balance the Tribunal determined that the service of the statutory Improvement Notice was a reasonable, pursuant to Section 11 of the Housing Act 2004. The Tribunal had regard to the length of time that the Appellant had had to remedy the defects and whilst the Tribunal accept that some delay was attributable to securing the services of local tradespeople, due to the seriousness of the deficiencies and the risk to the occupiers the Tribunal concluded it was necessary for the works to be undertaken within a reasonable timescale.
26. 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 on 31 May 2023, and the lack of progress over a twelve-month period was considered to be at a level of seriousness to make a Hazard Awareness Notice inappropriate and Improvement Notice appropriate.
27. The Tribunal decided that the Schedule 2 of the Improvement Notice would be varied as follows:
 - (i) Items 1 & 2 to be removed. Using the expertise of the panel, the Tribunal queried with the Respondent the fact that an Energy Performance Certificate [EPC] was in place. The Respondent provided a copy of the EPC certificate after the hearing which confirmed a D Energy Rating, and the certificate expires on 23 May 2032. There is no requirement for windows to be double glazed. Whilst these items have been removed from the statutory notice, as the existence of the EPC certificate did not support the finding of a category 2

hazard of Excess Cold, it is advisable that the Appellant tends to these works as they will improve the retention of heat in the property.

- (ii) Item 3 will stand. Whilst some works described in this item have been undertaken, there is only partial compliance. The item stands due to the risk of a build-up of dirt and grime and bacteria multiplying.
- (iii) Item 4 will stand as outstanding works. The Tribunal note that the Appellant submitted that the wallpaper had been peeled off by the tenant, however, the Tribunal accept that a category 2 hazard exists.
- (iv) It is not in issue that items 5 and 6 have been completed and no further action is required.
- (v) Items 7 & 8 will stand as works remaining outstanding and are considered to be a category 2 hazard.
- (vi) Item 9 will be removed. It was common ground, between the parties that the exact number of electrical sockets throughout the property was unclear, and required further investigation before statutory action would be appropriate.
- (vii) Item 10 is removed. The Tribunal accept that this socket is defunct and poses no risk. The Appellant should endeavour to fix a blanking plate to the socket.
- (viii) The Tribunal note that item 11 has been complied with, however there is further work to undertake upstairs, and the necessary certificate should be provided to the Respondent upon completion.
- (ix) Item 12 is removed as there has been full compliance.
- (x) Item 13 stands this was not in issue between the parties. The Appellant explained that completion of these works is dependent upon other works in the kitchen/utility area being undertaken (reference item 3)
- (xi) Item 14 – this item is removed. The Tribunal are satisfied that the decking has been removed and there was no evidence before the Tribunal that any hazard remained. The Tribunal did not assess risk at the time of the inspection, but using the expertise of the panel no clear risk was observed during the inspection.
- (xii) Item 15 remains. The Appellant stated that this was not necessary as the external works to the left wall had been undertaken. The Tribunal did not accept this and concluded that an inspection by a damp proof specialist was necessary to the front left and rear bedroom as stipulated in the statutory notice.

ORDER

28. The Tribunal varies the Improvement Notice as outlined in paragraph 27 above. All works to be completed by 31st March 2024.

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 3rd day of January 2024.

R Price Tribunal Judge