



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL
PROPERTY)**

Case reference : **LON/00BC/HIN/2024/0012**

Property : **6 Harman Rise, Ilford, Essex IG3 9FE**

Applicant : **Dr Deena Laila**

Respondent : **London Borough of Redbridge**

Type of application : **Appeal in respect of an Improvement Notice**

Tribunal : **Judge Nicol
Ms S Coughlin MCIEH**

Date and Venue of Hearing : **11th October 2024
10 Alfred Place, London WC1E 7LR**

Date of Decision : **11th October 2024**

DECISION

The Improvement Notice dated 26th February 2024 having been revoked on 7th August 2024 and no demand having been issued for any charge in relation to that Notice, there is nothing for the Tribunal to decide and so the appeal must be dismissed. (This is without prejudice to any argument that the appeal may be revived if any demand for a charge is served later.)

Reasons

1. The subject property is a one-bedroom ground floor flat. Following a complaint by the tenant in January 2024, the Respondent investigated and determined that a leak and an inoperative radiator had given rise to hazards of Damp and mould growth, Excess cold and Electrical hazards. On 26th February 2024 the Respondent served an Improvement Notice on the Applicant who is the leasehold owner of the property.
2. On 14th March 2024 the Applicant appealed to the Tribunal against the Improvement Notice, principally on the basis that the leak was the

responsibility of others, including the owner and manager of the block within which the property was contained.

3. On 7th August 2024 the Respondent revoked the Improvement Notice on the basis that there had been a change of circumstances, including that remedial works were underway and there was currently no tenant in occupation.
4. However, on 3rd October 2024 the Applicant provided a skeleton argument in which she objects to the charge of £550 the Respondent has said it intends to demand in respect of its expenses for the Improvement Notice.
5. The matter was heard on 11th October 2024. The attendees were:
 - Mr MSH Khan on behalf of the Applicant; and
 - Ms Eliz Bojte on behalf of the Respondent.
6. The documents before the Tribunal consisted of:
 - (a) A bundle of 166 pages from the Applicant;
 - (b) A bundle of 78 pages from the Respondent;
 - (c) The aforementioned skeleton argument on behalf of the Applicant; and
 - (d) A one-page skeleton argument on behalf of the Respondent (Mr Khan said he had not seen this).
7. Mr Khan pointed to an email dated 9th August 2024 from Ms Bojte in which she confirmed the revocation of the Improvement Notice but gave reasons as to why, nevertheless, the Respondent still required the Applicant to pay the charge of £550. He took this as both notification that the charge was an issue in the appeal and a sufficient demand for the money.
8. In fact, as Ms Bojte confirmed, the Respondent has yet to issue any demand. Under section 50(5) of the Housing Act 2004, a demand for payment of the charge must be served on the person from whom the authority seek to recover it. The Tribunal is not satisfied that the email of 9th August 2024 constitutes a demand under the Act rather than an indication of an intention to serve one later. The email is addressed to Mr Khan, not the Applicant, and contains no details of the payee or payer or the method of satisfying the demand.
9. The power under section 49(7) of the Act for the Tribunal to reduce or quash the charge is dependent on the existence of a proper demand, without which there is no charge. Therefore, just as the Tribunal no longer has the power to confirm, quash or vary the improvement notice because it has been revoked, the Tribunal cannot do anything about a charge which has not been demanded.

Name: Judge Nicol

Date: 11th October 2024

Appendix of relevant legislation

Housing Act 2004

11 Improvement notices relating to category 1 hazards: duty of authority to serve notice

- (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 as is specified in the notice in accordance with subsections (3) to (5) and section 13.

(3) The notice may require remedial action to be taken in relation to the following premises–

- (a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may require such action to be taken in relation to the dwelling or HMO;
- (b) if those premises are one or more flats, it may require such action to be taken in relation to the building containing the flat or flats (or any part of the building) or any external common parts;
- (c) if those premises are the common parts of a building containing one or more flats, it may require such action to be taken in relation to the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

(4) The notice may not, by virtue of subsection (3)(b) or (c), require any remedial action to be taken in relation to any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied–

- (a) that the deficiency from which the hazard arises is situated there, and
- (b) that it is necessary for the action to be so taken in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.

(5) The remedial action required to be taken by the notice–

- (a) must, as a minimum, be such as to ensure that the hazard ceases to be a category 1 hazard; but
- (b) may extend beyond such action.

(6) An improvement notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(7) The operation of an improvement notice under this section may be suspended in accordance with section 14.

(8) In this Part “remedial action”, in relation to a hazard, means action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard.

12 Improvement notices relating to category 2 hazards: power of authority to serve notice

(1) If–

(c) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and

(d) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

the authority may serve an improvement notice under this section in respect of the hazard.

(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 as is specified in the notice in accordance with subsection (3) and section 13.

(3) Subsections (3) and (4) of section 11 apply to an improvement notice under this section as they apply to one under that section.

(4) An improvement notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.

(5) An improvement notice under this section may be combined in one document with a notice under section 11 where they require remedial action to be taken in relation to the same premises.

(6) The operation of an improvement notice under this section may be suspended in accordance with section 14.

18 Service of improvement notices etc. and related appeals

Schedule 1 (which deals with the service of improvement notices, and notices relating to their revocation or variation, and with related appeals) has effect.

49 Power to charge for certain enforcement action

(1) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in–

(a) serving an improvement notice under section 11 or 12;

(b) making a prohibition order under section 20 or 21;

(c) serving a hazard awareness notice under section 28 or 29;

(d) taking emergency remedial action under section 40;

(e) making an emergency prohibition order under section 43; or

- (f) making a demolition order under section 265 of the Housing Act 1985 (c. 68).
- (2) The expenses are, in the case of the service of an improvement notice or a hazard awareness notice, the expenses incurred in—
 - (a) determining whether to serve the notice,
 - (b) identifying any action to be specified in the notice, and
 - (c) serving the notice.
- (3) The expenses are, in the case of emergency remedial action under section 40, the expenses incurred in—
 - (a) determining whether to take such action, and
 - (b) serving the notice required by subsection (7) of that section.
- (4) The expenses are, in the case of a prohibition order under section 20 or 21 of this Act, an emergency prohibition order under section 43 or a demolition order under section 265 of the Housing Act 1985, the expenses incurred in—
 - (a) determining whether to make the order, and
 - (b) serving copies of the order on persons as owners of premises.
- (5) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering expenses incurred by them in—
 - (a) carrying out any review under section 17 or 26, or
 - (b) serving copies of the authority's decision on such a review.
- (6) The amount of the charge may not exceed such amount as is specified by order of the appropriate national authority.
- (7) Where a tribunal allows an appeal against the underlying notice or order mentioned in subsection (1), it may make such order as it considers appropriate reducing, quashing, or requiring the repayment of, any charge under this section made in respect of the notice or order.

50 Recovery of charge under section 49

(1) This section relates to the recovery by a local housing authority of a charge made by them under section 49.

(2) In the case of—

- a) an improvement notice under section 11 or 12, or
- b) a hazard awareness notice under section 28 or 29,

the charge may be recovered from the person on whom the notice is served.

(3) In the case of emergency remedial action under section 40, the charge may be recovered from the person served with the notice required by subsection (7) of that section.

(4) In the case of—

- a) a prohibition order under section 20 or 21,
- b) an emergency prohibition order under section 43, or
- c) a demolition order under section 265 of the Housing Act 1985 (c. 68),

the charge may be recovered from any person on whom a copy of the order is served as an owner of the premises.

(5) A demand for payment of the charge must be served on the person from whom the authority seek to recover it.

(6) The demand becomes operative, if no appeal is brought against the underlying notice or order, at the end of the period of 21 days beginning with the date of service of the demand.

(7) If such an appeal is brought and a decision is given on the appeal which confirms the underlying notice or order, the demand becomes operative at the time when—

(a) the period within which an appeal to the Upper Tribunal may be brought expires without such an appeal having been brought, or

(b) a decision is given on such an appeal which confirms the notice or order.

PART 3

APPEALS RELATING TO IMPROVEMENT NOTICES

Appeal against improvement notice

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(1) The person on whom an improvement notice is served may appeal to the appropriate tribunal against the notice.

(2) Paragraphs 11 and 12 set out two specific grounds on which an appeal may be made under this paragraph, but they do not affect the generality of sub-paragraph (1).

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(1) This paragraph applies to an appeal to the appropriate tribunal under paragraph 10.

(2) The appeal—

(a) is to be by way of a re-hearing, but

(b) may be determined having regard to matters of which the authority were unaware.

(3) The tribunal may by order confirm, quash or vary the improvement notice.

(4) Paragraphs 16 and 17 make special provision in connection with the grounds of appeal set out in paragraphs 11 and 12.