

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Repairing Standard Enforcement Order under Section 24(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RT/23/3108

Re: Property at 3 Balmain Cottages, Fettercairn, AB30 1DA ("the Property")

Parties:

RR Brown and Sons, Balmain Farm, Fettercairn, Laurencekirk, AB30 1DA ("the Landlord");

Faith Allan, 3 Balmain Cottages, Fettercairn, AB30 1DA ("the Tenant"); and

Aberdeenshire Council, Gordon House, Blackhall Road, Inverurie, AB51 3WT ("the Third Party Applicant")

Tribunal Members:

R O'Hare (Legal Member) and A Anderson (Ordinary Member)

Whereas in terms of their decision dated 24 January 2024, the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") and in particular that the landlord has failed to ensure that:-

- (i) the house is not wind and watertight and in all other respects reasonably fit for human habitation;
- (ii) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (iii) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order; and
- (iv) the house meets the tolerable standard,

the Tribunal now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the Repairing Standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Tribunal requires the landlord to:-

- (i) Instruct a timber and damp specialist to investigate the damp and mould within the property and produce said report to the Tribunal for further consideration. The said timber and damp specialist should be provided with a copy of the Tribunal's decision for reference;
- (ii) Instruct a roofing contractor to inspect both chimneys and carry out such repairs as are necessary to ensure the property is wind and watertight;
- (iii) Repair or replace the kitchen tap to ensure it is in proper working order;
- (iv) Repair or replace the guttering to ensure it is in a reasonable state of repair; and
- (v) Carry out such redecoration as may be required following recent works undertaken by the Landlord and following the completion of the works under (ii).

The Tribunal orders that the works specified in this Order must be carried out and completed within a period of **eight weeks** from the date of service of this Notice.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party 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 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 determined.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation

**to a house at any time during which a RSEO has effect in relation to the house.
This is in terms of Section 28(5) of the Act.**

In witness whereof these presents type written on this and the preceding page(s) are
executed by R O'Hare, Chairperson, c/o Glasgow Tribunals Centre, 20 York Street,
Glasgow, G2 8GT in Aberdeen on 24 January 2024 before this witness:-