

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: RP/16/0270

**76 Church Court
Philpstoun
Linlithgow
EH49 6RB**

(“The Property”)

The Parties:-

**Ms Elena Bader, residing at 76 Church Court, Philpstoun, Linlithgow
EH49 6RB**

(“the Tenant”)

**Mrs Shona Mann, residing at 6 Sowdley Green, Wheaton Aston, Stafford,
ST19 9QB**

(“the Landlord”)

Tribunal Members

Paul Doyle	Legal Member
Greig Adams	Ordinary Member

Decision

1 On 5 January 2017, the Private Rented Housing Committee (now **First-tier Tribunal for Scotland (Housing and Property Chamber)**) issued a decision requiring the landlord to comply with the Repairing Standard Enforcement Order made by the Committee on 5 January 2017 (“The RSEO”)

2. The RSEO required the Landlord to carry out the following works

(a) repair or replace the render to each of the external walls of the property to make the property wind and watertight

(b) to investigate and eliminate the water ingress around the windows on the ground and first floors to the front of the property and ensure that every window in the property has a watertight seal.

(c) when the property is wind and watertight, and the interior walls have dried out, to remove the damp staining from the interior walls of the living room and first floor front bedroom and to redecorate the living room and front bedroom when the remedial works are completed.

All within 8 weeks of the date of service of service of the order.

3. On 6 April 2017 the ordinary member of the tribunal re-inspected the property. When he re-inspected the property, the ordinary member found

(a) Rendering works have not been completed and the property is not wind and watertight. Scaffolding remained to the Front Elevation and provision of a new dry dash render had been provided to the front elevation with the exception of ingoes/jambes of windows/main entrance door which remained incomplete whilst sealant works were also outstanding over the Front Elevation. There was no evidence of any works having been undertaken to the Gable Elevation.

(b) Evidence of water ingress around the front windows remains and remedial works remain outstanding. Utilising a thermal imaging moisture meter, moisture profiling of the front walls within the Ground Floor Living Room and First Floor Front Bedroom exhibited high moisture readings below the window cill areas whilst a further isolated area of high readings were recorded within the Bedroom to the gable wall centrally above the bed. Externally, sealant works and rendering to ingoes/jambes remains outstanding and an effective and watertight seal has not been provided.

(c) No internal remediation works have been progressed whilst the property has not been repaired to be considered wind and watertight nor have interior walls been dried out.

4. On 4 January 2018 the landlord sent details of the works which had been completed together with a report form DM Hall, surveyors commenting on the quality of the external render work which has been carried out.

5. The documents provided by the landlord merely confirm that external works have been done, which might, on reinspection by the ordinary member, satisfy the first requirement of the RSEO. It is not suggested that the second and third requirements of the RSEO (the internal works) have even commenced, even though a year has passed since the RSEO was served.

6. In the circumstances, the Tribunal cannot be satisfied that all works required by the Repairing Standard Enforcement Order had been carried out satisfactorily. The only conclusion that the Tribunal can come to is that the works have not been completed. The tribunal therefore refuse to issue a certificate of completion of works in terms of s. 60 of the Housing (Scotland) Act 2006. When the landlord produces evidence that all of the required works have been satisfactorily completed, the Tribunal will be able to consider (if new) whether the RSEO has been complied with.

7. In terms of section 46 of the Tribunals (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.

8. 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.

Signed
Legal Member

P Doyle

15 January 2018