

Housing and Property Chamber First-tier Tribunal for Scotland



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

Statement of Decision under Section 60 of the Housing (Scotland) Act 2006 ("the 2006 Act")

Chamber Ref: FTS/HPC/RP/18/0603

Property at Beaufort, Culbokie, Dingwall, IV7 8JH
("The Property")

The Parties:-

Mr Callum Child, formerly residing at Beaufort, Culbokie, Dingwall, IV7 8JH ("the former Tenant")

Mr Kevin Maggs, residing at Timberlee, Coulhill Road, Alness, IV17 0QT ("the Landlord")

The Tribunal comprised:-

Mrs Ruth O'Hare - Legal Member
Mr Mark Andrew - Ordinary Member

Decision

The Tribunal having made such enquiries as it saw fit for the purpose of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, determined that to revoke the RSEO and issue a Certificate of Completion.

Background

1. Reference is made to the decision of the Tribunal dated 27th July 2018 which determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act in that he had failed to ensure the Property met the Repairing Standard. The Tribunal therefore imposed a Repairing Standard Enforcement Order ("RSEO"). The works required by the RSEO were:-
 - (a) Replace the two external doors to the rear of the property and ensure these are wind and watertight;

- (b) Instruct a qualified electrician to inspect the electrical installations and carry out such works as are necessary to ensure they are in a reasonable state of repair and safe working order and produce a clear electrical installation condition report thereafter;
- (c) Apply draft proofing strips to all case windows;
- (d) Repair the cracked window pane in the lounge to the north east of the property;
- (e) Repair or replace the flat roof to ensure it is watertight;
- (f) Carry out such repairs as are necessary to the slate roof to ensure it is watertight;
- (g) Repair and cap the south west chimney to prevent water ingress;
- (h) Carry out repointing works to, and cap the north east gable chimney;
- (i) In the downstairs bedroom, remove the affected plaster surrounding the fireplace and remove all debris from behind to prevent water ingress;
- (j) Instruct a suitably qualified engineer to inspect the boiler and heating system and carry out such works as are necessary to ensure it is in proper working order and produce a service report thereafter; and
- (k) Carry out any such works to make good decoration following the works at (a) to (j).

The Landlord was given a period of six months from the date of the RSEO to complete the works.

2. Reference is further made to a decision of the Tribunal dated 7 May 2019 which determined to vary the RSEO to extend the period for completion of the works by a further six months.
3. A re-inspection took place on 22 December 2019. A copy of the re-inspection report is attached herewith. Following the re-inspection the Tribunal issued a Direction to the Landlord requiring that he provide the following:-
 - (a) An "Evidence of Competence" form, attached as Annex A to the Scottish Government Guidance on Electrical Installations and Appliances in Private Rented Property, signed by David McMinn Electrical; and
 - (b) Photographs clearly evidencing that the work noted as outstanding in the Re-inspection Report dated 22 December 2019 has been completed, in particular the replacement of the cracked windowpane and the internal decoration in the kitchen and utility room.

4. By email dated 13 February 2019 the Landlord provided a scanned copy of the Evidence of Competence form and photographs confirming that the work outstanding had been completed.

Reasons for the decision

5. The Tribunal was satisfied having regard to the results of the re-inspection and the further documentation provided by the Landlord that the works required by the RSEO had been completed. The Tribunal therefore determined to revoke the RSEO and grant a certificate of completion for the works.
6. The decision of the Tribunal was unanimous.

A landlord, tenant or third party applicant 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 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.

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.

Signed **R O'Hare**

Ruth O'Hare
Legal Member

27 February 2020