

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Variation of RSEO: Housing (Scotland) Act 2006 Section 25

Chamber Ref: PRHP/RT/16/0252

Sasines Description: Subjects described in the Notice of Title of Louise Mary Cumming Baldavie Banff to a one half pro indiviso share recorded in the General Register of Sasines for the County of Banff on 9 October 2008 and the Disposition by John Barclay to Robert Cumming and Mary Margaret Jane Robertson or Cumming, recorded GRS (Banff), 23 May 1969.

Re: Little Blairshinnoch Farmhouse, Boyndie, Banff, AB45 3AR (“the property”)

The Parties:-

DOCTOR SUZANNE WARREN, formerly residing at Little Blairshinnoch Farmhouse, Boyndie, Banff, AB45 3AR (“the former Tenant”)

MRS MARY CUMMING and MISS LOUISE CUMMING, East Baldavie Farm, Banff, AB45 2EB (“the Landlords”)

ABERDEENSHIRE COUNCIL, Gordon House, Blackhall Road, Inverurie, AB51 3WA (“the Third Party Applicant”)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) having determined on 05 December 2017 that the Repairing Standard Enforcement Order relative to the property served on 24 October 2016 and subsequently varied on 2 June 2017 should be further varied, the said Repairing Standard Enforcement Order is hereby further varied with effect from the date of service of this Notice in the following respects:-

1. The period allowed for the completion of the work required by the Order is extended for a further 3 months.

Sub-section 25(3) of the Housing (Scotland) Act 2006 does apply in this case.

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.

In witness whereof these presents typewritten on this and the preceding page are executed by **Graham Harding, Solicitor, 7 Whitefriars Crescent, Perth, PH2 0PA (Chairperson)** of the Tribunal at Perth on 05 December 2017 before this witness:-

G Harding

_____ witness

Chairperson

Kara Marina Cowie name in full

whitefriars house, 7 whitefriars address

Crescent, Perth, PH2 0PA

Housing and Property Chamber

First-tier Tribunal for Scotland



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

DETERMINATION: Statement relative to variation of Repairing Standards Enforcement Order under Section 25 (1) (a) of the Housing (Scotland) Act 2006 ("The Act")

Chamber Ref: PRHP/RT/16/0252

Sasines Description: Subjects described in the Notice of Title of Louise Mary Cumming Baldavie Banff to a one half pro indiviso share recorded in the General Register of Sasines for the County of Banff on 9 October 2008 and the Disposition by John Barclay to Robert Cumming and Mary Margaret Jane Robertson or Cumming, recorded GRS (Banff), 23 May 1969.

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("the Landlords")

ABERDEENSHIRE COUNCIL, Gordon House, Blackhall Road, Inverurie, AB51 3WA represented by **MS JULIA LEONARD**
("the Third Party Applicant")

DECISION

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal") determined that the Landlord be allowed further time to complete the outstanding works.

BACKGROUND

1. On 24 October 2016 the Private Rented Housing Committee made a Repairing Standard Enforcement Order (RSEO) in respect of the property. The members of the committee were Graham Harding, Solicitor Chairman and Angus Anderson, Surveyor Member.
2. The Tenancy of the house was lawfully terminated on 28 February 2017.

3. On 01 December 2016, the Housing and Property Chamber assumed responsibility for the application. The Members of the Tribunal dealing with the application are Graham Harding, Solicitor, Legal Member and Angus Anderson, Surveyor, Ordinary Member.
4. The RSEO required the Landlords to:-
 - (a) Repair or replace all the windows at the property exhibiting signs of decay or defective operating mechanisms, including repairing or replacing external or internal cills and to put the windows in a reasonable state of repair.
 - (b) Instruct a Raeburn Guild Engineer to carry out an inspection of the Raeburn Stove in the kitchen of the property to confirm either that it is in proper working order and in reasonable state of repair or to carry out any work recommended by the said engineer.
 - (c) Repair the cracks in the front and rear elevation walls and the right hand gable.
 - (d) Make good all rainwater goods by repairing or replacing as necessary.
 - (e) Repair or replace defective kitchen unit drawers and cupboards.

In view of the nature of the failure to meet the repairing standard as defined in the Act, the Committee determined that the Repairing Standard Enforcement Order required to be complied with by 31 March 2017.

5. On 06 April 2017 the Ordinary Member of the tribunal inspected the property.
6. The Report disclosed that some works required by the RSEO had been completed but that some matters remained outstanding at the time of the inspection.
7. Subsequent to the inspection the Landlords provided vouching and information with regards to the timescale for completing the outstanding matters.
8. The tribunal noted that the Tenancy had been lawfully terminated and in view of the fact that the Landlords were making progress to complete the outstanding works the tribunal determined that the Repairing Standard Enforcement Order be varied to allow the Landlords a further three months to complete the remaining works.
9. On 31 October 2017 the Ordinary Member of the tribunal carried out a further re-inspection of the property and a copy of his Report with relevant photographs is attached.
10. The Report discloses that all works required by the RSEO other than those relating to the kitchen had been completed. The Landlord, Mrs Cumming had advised the Ordinary Member that the Reyburn stove which had been removed was to be replaced with an electric stove or hob/oven in conjunction with a planned re-fit of the kitchen.

11. As the property was vacant and the Landlord was taking steps to complete the remaining works the tribunal determined that the Repairing Standard Enforcement Order be varied to allow the Landlords a further three months to complete the remaining work.

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 thirty 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.

G Harding

Graham Harding (chairperson and legal member)

signed

05 December 2017 date

Housing and Property Chamber First-tier Tribunal for Scotland



Housing (Scotland) Act 2006: Re-inspection Report

Property: Little Blairshinnoch Farmhouse, Boyndie, Banff AB45 3AR

Chamber Reference : PRHP/RT/16/0252

Re-inspection Date: 31/10/2017 - 10.30am

Weather conditions: Mild, overcast and showery.

In attendance: Mary Cumming, Joint Landlord

Tribunal Member: Angus Anderson



Front Elevation.

Repairing Standard Enforcement Order (RSEO)

Works required by the RSEO:

- (a) Repair or replace all the windows at the property exhibiting signs of decay or defective operating mechanisms, including repairing or replacing external or internal cills and to put the windows in a reasonable state of repair
- (b) Instruct a Raeburn Guild Engineer to carry out an inspection of the Raeburn stove in the kitchen of the property to confirm either that it is in proper working order and in reasonable state of repair or to carry out any recommended by the said Engineer.
- (c) Repair the cracks in the front and rear elevation walls and the right hand gable.
- (d) Make good all rainwater goods by repairing or replacing as necessary.
- (e) Repairing or replace defective kitchen unit drawers and cupboards.

Works in the RSEO undertaken:

- (a) Other than roof windows, all windows have been replaced and internal linings/cills made good.
- (b) The Raeburn stove and associated flue in the kitchen have been removed.
- (c) The cracks in the front and rear elevation walls and the right hand gable have been repaired.
- (d) The rainwater goods have been completely replaced. There was no visible leakage during my inspection and all downpipes were found to be firmly attached.
- (e) At the previous re-inspection, the defective drawer unit to the right of the stove had been replaced with a new unit and the door catches repaired to the wall units. At this re-inspection, the entire kitchen fittings have been removed.

Observations/comment:

Mrs Cumming stated that the Rayburn is to be replaced with an electric stove or hob/oven in conjunction with the planned kitchen re-fit. The property appeared to be vacant and was unfurnished.

This report will be distributed to the parties and their representatives for their comment. The report and comments received will be referred to the Tribunal for consideration and further action.

Photographs were taken on the day of inspection and are attached.

Angus Anderson, MRICS; Date of report: 01/11/2017.

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Re-inspection Report : Housing (Scotland) Act 2006

Schedule of Photographs

Little Blairshinnoch Farmhouse, Boyndie, Banff AB45 3AR

Chamber Reference : PRHP/RT/16/0252

Re-inspection Date: 31/10/2017



Figure 1 Front Elevation



Figure 2 Right hand gable elevation - cracks re-pointed, window replaced.



Figure 3 Front corner - Gutters replaced.



Figure 4 Front elevation right hand side vertical crack re-pointed, window replaced.



Figure 5 Front elevation left hand side - all guttering replaced, replacement windows, replacement chimney cans.



Figure 6 Left gable elevation/side addition - Windows and gutters replaced.



Figure 7 Rear elevation - windows and guttering replaced.



Figure 8 Rear left corner - both cracked areas re-pointed, windows and guttering replaced.



Figure 9 ~ Kitchen units stripped out, stove removed.



Figure 10- Right ground floor bedroom gable window internal - typical finish.



Figure 11 Right first floor bedroom window internal.