

# Housing and Property Chamber

## First-tier Tribunal for Scotland



### Repairing Standard Enforcement Order

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

Housing (Scotland) Act 2006 Section 24

Chamber Ref: FTS/HPC/RT/21/0003

**The Property:** 8 Cresswell Gardens, Dumfries, DG1 2HH (“The Property”)

#### **The Parties:**

Dumfries and Galloway Council, Communities Strategic Housing, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD (“the Third Party Applicant”) and

Mrs Gillian Landsburgh, 22 Summerville Crescent, Dumfries, DG2 9BY (“the Respondent Landlord”)

#### **Tribunal Members:**

G McWilliams- Legal Member  
C Jones- Ordinary Member

#### **The Order**

- 1) Whereas in terms of their Decision dated 19<sup>th</sup> November 2021 The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent 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 Respondent has failed to ensure that the Property is wind and watertight and in all other respects reasonably fit for human habitation, that the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order, that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a

reasonable state of repair and in proper working order, that fixtures, fittings and appliances provided by the Respondent under the tenancy are not in a reasonable state of repair and in proper working order, that the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, nor for giving warning if carbon monoxide is present in a concentration that is hazardous to health and that the house does not meet the tolerable standard.

- 2) The Tribunal now requires the Respondent to carry out such works as are necessary for the purpose of ensuring that the Property meets the Repairing Standard all in terms of Section 13(1) (a), (b), (c), (d), (f), (g) and (h) of the 2006 Act and that any damage caused by the carrying out of any work in terms of this Order is made good; and
- 3) Specifically the Respondent is ordered to do the following:-
  - i) Install new interlinked smoke and heat detectors in the property to comply with all current regulations and guidance, and
  - ii) Install a CO detector in the property to comply with current regulations and guidance, and
  - iii) Repair or replace the extractor fan in the bathroom of the Property to ensure that there is fan within that room which is in a reasonable state of repair and proper working order; and
  - iv) Complete the installation of the toilet in the bathroom of the Property to ensure that the toilet is in a reasonable state of repair and proper working order; and
  - v) Repair or replace the shower curtain rail in the bathroom of the Property to ensure that this is in a reasonable state of repair and proper working order; and
  - vi) Replace the missing tiles on the roof the Property, including the missing ridge tile adjacent to the chimney stack, to ensure that the roof is in a reasonable state of repair and the Property is wind and watertight; and
  - vii) Repair the render on the chimney stack at the Property to ensure that the stack is in a reasonable state of repair and that the Property is wind and watertight; and
  - viii) Instruct a suitably qualified SELECT, NAPIT or NICEIC registered electrician to carry out a certified electrical inspection and testing of the entire electrical installation of the property and exhibit a satisfactory EICR and PAT to the Tribunal; and
  - ix) Instruct a suitably qualified Gas Safe engineer to inspect the gas boiler, carry out a service and any necessary repairs to the boiler and thereafter

**inspect all the gas appliances at the property and provide the Tribunal with a satisfactory Gas Safety Record and written evidence of the service and any repairs carried out to the boiler.**

- 4) In view of the nature of the failure to meet the Repairing Standard as defined in the 2006 Act, and the extent of the remedial works which require to be carried out, the Tribunal determines that the RSEO requires to be complied with by 31<sup>st</sup> March 2022.

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.

In witness whereof these presents, typewritten on this and the preceding page, are executed by Gerry McWilliams, Solicitor, Legal Member of the Tribunal, at Glasgow on 19 November 2021, before this witness:-

**Carol Cassidy Witness**

**G McWilliams Legal Member**