

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber) Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 60 of the Housing (Scotland) Act 2006

Case Reference Number: FTS/HPC/RT/21/0003

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

Land Register Title Number: DMF5751

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

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’), having made such enquiries as it saw fit for the purposes of determining whether the Respondent Landlord has complied with the Repairing Standard Enforcement Order made by the Tribunal on 19th November 2021, decided that the Landlord has complied with the Order and that a Certificate of Completion of Works should be issued in terms of Section 60 of the Housing (Scotland) Act 2006 (“the Act”),

Background

1. On 19th November 2021, The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and made a Repairing Standard Enforcement Order ("RSEO") in respect of the Property. The RSEO required the Landlord to:
 - 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.

- 2. The Tribunal determined that the RSEO required to be complied with by 31st March 2022.**

The Re-inspection

- 3. The Tribunal re-inspected the Property on 21st April 2022. A copy of the Tribunal's Re-inspection Report is attached to and forms part of this Statement of Decision. The Report recorded that the works required under items (i), (ii), (iv), and (v) in the RSEO had been completed. The Report furthermore recorded that in relation to item (iii) the extractor fan in the Bathroom had not been replaced and the landlord had not provided any evidence of a repair. In relation to items (vi) and (vii) the Landlord had replaced the ridge tile adjacent to the chimney head but there were still several missing and damaged tiles to the front and rear pitches of the roof and no works had been carried out to repair the render on the chimney head. The Landlord had also not provided a satisfactory Electrical Installation Condition Report, a satisfactory Gas Safety Record or evidence of repairs/service to the boiler to comply with items (viii) or (ix) but the Landlord had confirmed that as there are no portable appliances in the property a Portable Appliance Test would not be necessary. The Re-inspection Report was sent to the parties for comment.**
- 4. Between April and August 2022 the Landlord and Third-Party Applicant subsequently provided the Tribunal with evidence of completion of items (iii), (vi), (vii), (viii) and (ix) in the RSEO, including a Minor Electrical Installation Works Certificate dated 21 April 2022 to confirm the repair to the extractor fan, an unsatisfactory Electrical Installation Condition Report dated 23 November 2021 along with an Electrical Installation Remedial Report completed on the same date and detailing works carried out to rectify all C2 observations contained in the EICR. All reports and certificates have been completed by a registered electrician. A satisfactory Gas Safety Record completed by a gas safe registered engineer and dated 20 April 2022 was provided which also confirmed a service of the boiler and repair to a leaking pressure gauge. An update on all communal roof repairs and photographs were subsequently received in October 2022, these confirmed the chimney head has now been removed and roof tiles patched.**

Reasons for Decision

4. Having considered the further papers which have been submitted the Tribunal is satisfied that the works required by the RSEO have been carried out. Accordingly, a Certificate of Completion of Works should be issued. The decision of the Tribunal is unanimous.

Right of Appeal

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. 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 McWilliams

Signed G McWilliams Legal Member

8th December 2022