

# Housing and Property Chamber

## First-tier Tribunal for Scotland

---



### Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 25(1) of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/RT/16/0138

Property at 1 Dornock Mill, Dornock, Annan, DG12 6TJ being the subjects registered in the Land Register of Scotland under Title Number DMF12080 ('the House')

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')

Hope- Vere Anderson residing at Barbeth, New Abbey, Dumfries, DG2 8DB ('the Landlord')

Miss Jade Boyle residing formerly at 1 Dornock Mill, Dornock, Annan, DG12 6TJ ('the Tenant')

The First-tier Tribunal for Scotland (Housing and Property Chamber), formerly the Private Rented Housing Committee, ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Lorraine Charles (Ordinary Member).

#### Background

1. The Private Rented Housing Committee ('the Committee') issued a Repairing Standard Enforcement Order ('RSEO') in respect of the House which required the Landlord to:-

*'1. Instruct a competent gas central heating engineer to inspect the central heating system and carry out such repairs that are required to render it in proper working order. Following completion of the said works the Landlords are required to provide the Committee with a report from the said central heating engineer confirming that the central heating system is in proper working order.'*

*2. Commission a report from a dampness specialist and carry out the recommended works to render the property water tight.'*

2. The Committee ordered that the works specified in the RSEO were to be carried out and completed by 30<sup>th</sup> November 2016.
3. On 1<sup>st</sup> December 2016 jurisdiction of the Private Rented Housing Panel and its Committees passed to The Housing and Property Chamber.

4. On 31<sup>st</sup> March 2017 the Tribunal carried out an inspection of the House for the purpose of ascertaining whether the repairs required by the RSEO had been completed. They found that none of the required works had been completed. The inspection report dated 31<sup>st</sup> March 2017 is annexed and executed as relative hereto.
5. On 31<sup>st</sup> March 2017 the Tribunal also held a hearing in Annan Community Centre to determine if the terms of the RSEO had been complied with. The Landlord attended. He was accompanied by Alan Wilson, owner of 5, Dornoch Mill; Colin Muir, father of the owner of 2 Dornoch Mill and Richard Mossop, roofing contractor. The Third party did not attend and was not represented.

Richard Mossop explained that eighteen months ago he had carried out work to start to rectify the dampness in the building. He was aware that the building suffered from vertical water penetration from the roof. He installed eaves trays at the front section of the roof of the building and this has been partially successful. He considers that it is also necessary to install eaves trays at the rear section of the roof. He explained that the purpose of the eaves trays is to ensure that water from the roof runs into the gutters and does not penetrate the fabric of the building.

He is also aware that there is cracked rendering at the front of the building that needs to be repaired.

In connection with the repairs required to the gas central heating system the Landlord explained that the gas had been cut off as the last tenant had not paid their electricity account. Consequently he has been unable to have the system tested. He explained that as he does not live in Scotland he has had difficulty in having the gas reconnected and arranging for the system to be tested. Colin Muir volunteered to assist in having the gas reconnected and the system tested.

The Landlord requested a variation of the RSEO to allow a period of one year to complete the required works.

The Tribunal explained that they would not be prepared to grant such a long extension. They also explained that they were most concerned that evidence had not been provided that the gas central heating system is in proper working order. They agreed to defer from issuing their decision for sixteen days to allow time for the Landlord to exhibit the gas safety certificate.

Colin Muir sent the Housing and Property Chamber Administration a letter on behalf of the Landlord received on 13<sup>th</sup> April 2017. He enclosed the gas safety certificate dated 5<sup>th</sup> April 2017. The certificate stated that the boiler was not safe to use. However the gas supply to the Property had been capped off.

### **Decision and Reasons**

6. The Tribunal considered the Landlord's representations. They considered that an extension to 30<sup>th</sup> September 2017 for completion of the required works to be

reasonable as the Property was not tenanted and the gas supply had been capped off.

7. The Tribunal therefore decided that they would vary the RSEO as stated.
8. The decision of the Tribunal was unanimous.

### **Appeals**

**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.**

J Taylor

Signed.....  
Chairperson

..... Date 8<sup>th</sup> May 2017

# Housing and Property Chamber First-tier Tribunal for Scotland



**Variation of Repairing Standard Enforcement Order  
by the First-tier Tribunal for Scotland  
(Housing and Property Chamber)  
under section 25(1) of the Housing (Scotland) Act 2006**

**Chamber Ref PRHP/RT/16/0138**

**Property at 1 Dornock Mill, Dornock, Annan, DG12 6TJ being the subjects registered in the Land Register of Scotland under Title Number DMF12080 ('the House')**

**Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')**

**Hope- Vere Anderson residing at Barbeth, New Abbey, Dumfries, DG2 8DB ('the Landlord')**

**Miss Jade Boyle residing formerly at 1 Dornock Mill, Dornock, Annan, DG12 6TJ ('the Tenant')**

**The First-tier Tribunal for Scotland (Housing and Property Chamber), formerly the Private Rented Housing Committee, ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Lorraine Charles (Ordinary Member).**

## **NOTICE TO THE LANDLORD**

The Tribunal having accepted the Landlord's application to have The **Repairing Standard Enforcement Order** varied to allow additional time for completion of the outstanding works determined that The **Repairing Standard Enforcement Order** is **VARIED** with effect from the date of service of this Notice to the effect that the period allowed for the completion of the works is extended to 30<sup>th</sup> September 2017.

### **Appeals**

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 are subscribed at Glasgow on 8<sup>th</sup> May 2017 by Jacqui Taylor, chairperson of the Tribunal, 65, High Street, Irvine in the presence of the witness undernoted:

**J Taylor**

Signed.....

..... Date 8<sup>th</sup> May 2017

Chairperson

.

.....witness:

# Housing and Property Chamber First-tier Tribunal for Scotland



## Schedule of Photographs

1 Dornock Mill, Dornock, Annan DG12 6TJ



Inspection – 31st March 2017 at 10:00am  
Weather – dry/ windy

This is the inspection report referred to in the foregoing statement of Decision of the first-tier Tribunal for Scotland (Housing and Property Chamber) dated 8th May 2017

J Taylor

## Inspection

External render cracked, boss and missing, allowing water ingress to fabric of building.

- 1) Dampness readings noted to lounge wall 50% moisture recorded on protimeter



Bedroom 1 reading 24% moisture recorded



Kitchen cupboard reading 60% +moisture recorded



Kitchen cupboard back wall 90% moisture recorded - cement crumbling



Bathroom 30% moisture recorded





Bedroom 2 within normal moisture range



The central heating system could not be tested as the property had no gas supply at the time of inspection.

Signed.....Lori Charles..... Dated 31/03/17