



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

**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006,
Section 24**

Chamber Ref: FTS/HPC/RT/20/0910

Property at Woodhill House & Bothy, Lumphanan, Banchory, Aberdeenshire, AB31 4PS

Sasine Description: ALL and WHOLE 0.56 acre with house described in Disposition to Peter Robinson recorded GRS (Aberdeen) 6 December 1985 ("the Property")

The Parties:-

Aberdeenshire Council, Gordon House, Blackhall Road, Inverurie, Aberdeenshire, AB51 3WA

("The Third Party")

(Represented by Mrs Emma Bain, Aberdeenshire Council)

Mr Matthew Tough and Mrs Alison Tough, Woodhill House & Bothy, Lumphanan, Banchory, Aberdeenshire, AB31 4PS

("the Tenants")

Mr Paul Dolan & Mrs Ella Dolan, 14735 Bramblewood Drive, Houston, Texas, 77079, United States of America

("the Landlords")

Whereas in terms of their decision dated 22 September 2021, the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determined that the Landlords have 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 Landlords have failed to ensure that:-

- (a) The house is wind and watertight and in all other respects fit for human habitation.
- (b) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
- (c) The house meets the tolerable standard.

the tribunal now requires the Landlords to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the tribunal requires the Landlords:-

1. In the vestibule of the main house forming part of the Property ("the vestibule") to repair or replace the window and window frame to ensure that the window opens, closes and

locks correctly, is wind and watertight, in a reasonable state of repair and in proper working order.

2. (i) To engage a suitably qualified contractor to investigate the extent and cause of dampness on the internal wall behind the exterior door of the vestibule and to provide to the tribunal for approval a report detailing the cause of and any works required to eradicate the dampness to ensure the vestibule is wind and watertight and in a reasonable state of repair and, following approval of the report and works stated to be required, to execute any repairs identified as being necessary.
- (ii) On completion of the works referred to in 2(i) above to provide to the tribunal written confirmation that the source of the dampness has been eradicated.
3. In the utility room of the main house ("the utility room"):-
 (i) To engage a suitably qualified contractor to investigate the extent and cause of draughts and any dampness within the cupboard beneath the window and sink, and to provide to the tribunal for approval a report detailing the cause of and any works required to eradicate the draughts/dampness to ensure the utility room is wind and watertight and in a reasonable state of repair and, following approval of the report and works stated to be required, to execute any repairs identified as being necessary.
- (ii) On completion of the works referred to in 3(i) above to provide to the tribunal written confirmation that the source of the draughts/dampness has been eradicated.
4. In the sitting room of the main house ("the sitting room"):-
 (i) To engage a suitably qualified contractor to investigate the extent and cause of draughts and any dampness beneath the windows, and to provide to the tribunal for approval a report detailing the cause of and any works required to eradicate the draughts/dampness to ensure the sitting room is wind and watertight and in a reasonable state of repair and, following approval of the report and works stated to be required, to execute any repairs identified as being necessary.
- (ii) On completion of the works referred to in 4(i) above to provide to the tribunal written confirmation that the source of the draughts/dampness has been eradicated.
5. To repair or replace the skylight window above the stairwell in the main house of the Property to ensure that the window opens, closes and locks correctly, is wind and watertight, in a reasonable state of repair and in proper working order.
6. To engage a suitably qualified contractor to install insulation in the attic and eaves of the main house of the Property in those areas where no insulation presently exists.
7. In the master bedroom of the main house of the Property, to repair or replace all windows and window frames, including the Velux style windows, to ensure that the windows open, close and lock correctly, are wind and watertight, in a reasonable state of repair and in proper working order.
8. To repair or replace the exterior front door, door frame, transom and glazed panels above the door, of the main house of the Property to ensure that the door opens, closes and locks correctly, is wind and watertight, in a reasonable state of repair and in proper working order.

9. In the kitchen of the main house of the Property:-

- (i) To engage a suitably qualified contractor to investigate the extent and cause of any dampness on the ceiling of the kitchen and to provide to the tribunal for approval a report detailing the cause of and any works required to eradicate the dampness to ensure the kitchen ceiling is wind and watertight and in a reasonable state of repair and, following approval of the report and works stated to be required, to execute any repairs identified by the contractor as being necessary.
- (ii) On completion of the works referred to in 9(i) above to provide to the tribunal written confirmation that the source of the dampness has been eradicated.

10. In the Bothy:-

- (i) To engage a suitably qualified contractor to investigate the extent and cause of dampness within the Bothy to include in particular the arrangement of gutters, downpipes and any drains, and to provide to the tribunal for approval a report detailing the cause of and any works required to eradicate the dampness to ensure the Bothy is wind and watertight, reasonably fit for human habitation and in a reasonable state of repair and, following approval of the report and works stated to be required, to execute any repairs identified by the contractor as being necessary.
- (ii) On completion of the works referred to in 10(i) above to provide to the tribunal written confirmation that the source of the dampness has been eradicated.
- (iii) To repair or replace the bathroom window to ensure that the window opens, closes and locks correctly, is wind and watertight, in a reasonable state of repair and in proper working order.

The tribunal orders that the works specified in paragraphs 1, 5-8 and 10(iii) of this Order must be carried out within the period of 3 months from the date of service of this Notice.

In relation to paragraphs 2(i), 3(i), 4(i), 9(i) and 10(i) of this Order the tribunal orders that the specialist reports required in terms thereof must be delivered to the tribunal for consideration and approval within the period of 3 months from the date of service of this Notice.

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.

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 type written on this and the two preceding pages are executed by Miss Gillian Buchanan, Solicitor, 3rd Floor, Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT, Legal Member of the tribunal at E dee on 22 September 2021 before this witness:-

A Robertson

G Buchanan

 witness

Legal Member

ANGELA ROBERTSON name in full

THORNTONS LAW LLP, Address

WHITEHALL HOUSE, 33

YEAMAN SHORE, DUNDEE