

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**

Chamber Ref: FTS/HPC/RP/21/2697

Re: Property at West Lodge, Stobo, Peebles EH45 8NY (“the Property”)

Parties:

**Miss Carol McMillan, West Lodge, Stobo, Peebles EH45 8NY (“the
Tenant”)**

Mr Hugh Leopold Seymour, Larkhill, Lauder TD2 6RS (“the Landlord”)

Tribunal Members:

**George Clark (Legal Member/Chair) and Mike Links (Ordinary/surveyor
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 Landlord has complied with the Repairing Standard Enforcement Order made by the Tribunal on 8 February 2022, 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

On 8 February 2022, 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 (“the Order”) in respect of the Property.

The Order required the Landlord to:

1. Carry out such works to the windows throughout the Property as are necessary to ensure they are wind and water tight and that they can be opened and closed and can be properly secured.

2. Carry out such repairs as are necessary to the chimneyhead to ensure that it is structurally safe and wind and water tight, including fitting suitable cowls to the chimney pots.
3. Carry out such repairs to the roof and roof pertinentents as are necessary to render the roof wind and water tight, and such repairs/replacements as are necessary to ensure the gutters are water tight.
4. When the chimney head work has been completed, carry out such works as are necessary to repair internal plasterwork and decoration.
5. Carry out such work as is necessary to ensure the access hatch in the kitchen can be safely opened and closed.
6. Exhibit to the Tribunal a report from a suitably qualified professional contractor that the insulation in all accessible roof spaces in the Property meets the tolerable standard, and if it does not, to carry out such improvements as are necessary to ensure it meets that standard.
7. Carry out such work as is necessary to repair or replace the lock and handle in the back entrance door of the Property and to make it wind and water tight.
8. Carry out such work as is necessary to remove mould, wash down and apply fungicidal treatment to the wall adjacent to the stair window, and to establish a regular programme for repeating that work until such time as a permanent solution to the problem of moisture and mould forming in that area.

The Tribunal ordered that the works required by this Order must be carried out within four months of the date of service of the Order on the Landlord

The Reinspection

The Tribunal reinspected the Property on 5 September 2022. A copy of the Tribunal's Reinspection Report is attached to and forms part of this Statement of Decision. The Report stated that all the works required by the Order had been carried out, but noted that the lock bolt keeper of the back entrance door leading to the porch is damaged though remains functioning at present, and that the draught proof seal around that door is defective. The Reinspection Report was sent to the Parties for comment. On 21 September 2022, the Landlord's agents confirmed that they agreed with the findings of the Report and that an appropriate tradesman had been instructed to replace the back door seal and repair the lock bolt keeper as soon as he was able to do so. The tradesman would liaise with the Tenant directly to obtain access for the work.

Reasons for Decision

The Tribunal is satisfied that the work required by the Order has been carried out. Accordingly, a Certificate of Completion of Works should be issued.

The decision of the Tribunal was 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 Clark

Signed

Date: 22 November 2022

George Clark (Legal Member/Chairman)