



**First-tier tribunal for Scotland (Housing and Property Chamber)**

**STATEMENT OF DECISION in respect of an application under Section 24 (1) of the Housing (Scotland) Act 2006 (“the Act”) and issued under the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016**

**Ref: PRHP/RP/16/0119**

**Re:- Property at Flat 101, 38 Boyd Street, Largs, KA30 8LE (“the property”)**

**Land Register Title No: AYR79158**

**The Parties:-**

**Mr John Cameron residing at Flat 101, 38 Boyd Street, Largs, KA30 8LE (“the former tenant”)**

**And**

**Mrs Eva Ohnesorge, residing at 62 Ashford Road, Eastbourne, BN21 3TD represented by her letting agent Robert Smith of Property Management Options, 6 Robert Street, Port Glasgow, PA14 5NU (“the landlord”)**

**Tribunal Members**

**James Bauld, legal member**

**Nick Allan, surveyor, ordinary member**

**Background and initial decision**

1. By decision dated 15 September 2016, the then Private Rented Housing Committee issued a determination which decided that the landlord had failed to comply with the duties imposed by Section 14 (1) of the Housing (Scotland) Act 2006 (“the 2006 Act”). On the same date the Committee issued a Repairing Standard Enforcement Order (“RSEO”) in respect of the property.

2. In terms of the RSEO the landlord was ordained to carry out certain works to the property within three months of the date of the order.
3. The required works were as follows
  - Provide hard wired smoke, heat and carbon monoxide alarms within the property to fully comply with current standards.
  - Repair or replace flushing mechanism in cistern
  - Replace or refit toilet seat
  - Replace kitchen flooring
  - Produce and provide a valid gas safety certificate as required in terms of the Gas Safety (Installation and Use Regulations) 1998
  - Obtain appropriate reports from a recognised specialist company to establish the extent of the works required to eradicate dampness in the property and in particular within the living room and bedrooms of the property and to carry out these works including internal redecoration
  - Provide an energy performance certificate in respect of the property in terms of the appropriate regulations.
  - Provide a valid and up to date Electrical Installation Condition Report.
  - Remove vegetation and clear gutters so that they function properly.

#### **Subsequent variations and Rent Relief Order (RRO)**

4. Subsequently a decision was made to vary the terms of the RSEO by extending the time limit for works to be completed. That decision was issued by the First-tier Tribunal for Scotland (Housing and Property Chamber) to whom the functions of the Private Rented Housing Committee were transferred on 1 December 2016 in terms of relevant legislation and regulations.

5. Subsequent to the variation of the RSEO, the First-tier Tribunal then issued a further decision on 31 August 2017 indicating that the landlord had failed to comply with the terms of the RSEO and the Tribunal made a Rent Relief Order ("RRO") in terms of Section 27 of the 2006 Act reducing the rent payable under the tenancy for the housing by an amount of 40% of the rent which would, but for the order, be payable.

### **Procedures since RRO granted**

6. Since the rent relief order was granted there have been a number of re-inspections by the tribunal.
7. On 5 November 2019 a further determination was made extending the time required to comply with the RSEO until 30 April 2020.
8. The tribunal's processes and procedures were thereafter substantially affected by the restrictions and lockdowns which arose as a result of the pandemic.
9. On 29 January 2021 a Case Management Discussion took place in which additional time was given to the respondent to effect the required repairs. By that stage the only outstanding matter was the repairs required to deal with the dampness within the interior front elevation and gable walls of the living room, together with the dividing wall between the living room and bedroom to the front of the property. All the other required repairs had long since been effected by the landlord to the satisfaction of the tribunal.
10. On 8 April 2022 another re-inspection took place. On that date the tribunal noted that the below surface dampness readings on the living room were still indicating saturation and serious damp penetration. The tribunal was not able on that date to be satisfied that all repairs had been completed and was unable to determine that the RSEO should be revoked.

### **The final re-inspection**

11. On 22 July 2022 the tribunal members again attended to carry out from the re-inspection having been requested to do so by the landlord's agent.

12. A copy of the report prepared by the ordinary member of the tribunal is attached to this decision. On that date the tribunal noted that the majority of the wall section provided acceptable below surface dampness readings although there was one very small section of the wall which produced a high below surface dampness reading. The tribunal noted that in general the sections of the wall in question were no longer providing significant below surface dampness readings and could now be regarded as dry.

13. The tribunal was therefore satisfied that all works required in terms of the RSEO have now when completed

14. The Tribunal have considered the terms of the re-inspection report from 22 July 2022 and the evidence from all previous re-inspections and have now determined that all works in the RSEO have now been completed.

## **Decision**

The Tribunal accordingly unanimously agreed that the Rent Relief Order should be revoked and that the Certificate of Completion in terms of the RSEO should be issued.

The Tribunal accordingly revokes the Rent Relief Order with effect from 22 July 2022

**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 an 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.**

Signed:- J Bauld

Date *24 August 2022*

Legal Member