



**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**

**Property: 7 Prior Avenue, Canonbie, Dumfries and Galloway DG14 0UT
("the Property"/ "the house")**

Sasine Description: ALL and WHOLE that plot or area of ground with the dwellinghouse and others erected thereon known as 7 Prior Avenue, Eskdale, Canonbie, in the County of Dumfries, being the subjects more particularly described in Disposition by Annandale and Eskdale District Council in favour of Marion Graham dated 22 April and recorded in the Division of the General Register of Sasines applicable the County of Dumfries 14 May, both dates in the year 1992

Chamber Reference: FTS/HPC/RT/19/3345

Parties:

Dumfries & Galloway Council, Strategic Housing Services, Council Offices, Buccleuch Street, Dumfries DG1 2AD ("Third Party Applicant")

Mr John Kerr, 1 King Garth, Cargo, Carlisle CA6 4AU ("the Landlord")

Tribunal Members – George Clark (Legal Member/Chairperson) and Donald Wooley (Ordinary Member/Surveyor)

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 4 December 2019 under Section 26(1) of the Housing (Scotland) Act 2006 ("the Act"), determined that the work required by the Order had been carried out to the Tribunal's satisfaction and that a Certificate of Completion of Works should be issued under Section 60 of the Act.

Background

- 1. On 4 December 2019, the Tribunal made a Repairing Standard Enforcement Order ("the Order") in respect of the Property, in terms of Section 24 of the Housing (Scotland) Act 2006 ("the 2006 Act").**

2. The Order required the Landlord to:-
 - 1) Renew or repair broken and damaged wet wall lining in the bathroom ensuring that it is in a reasonable state of repair and in proper working order.
 - 2) Remove all visible mould from the internal walls, clean, treat with appropriate fungicidal solution and redecorate as necessary
 - 3) Obtain an Electrical Installation Condition Report (EICR) from a SELECT, NICEIC or NAPIT registered electrician in respect of the property, undertake any work which is identified in said report to be of Category C1 or C2 and ensure that the visible gap adjacent to the wall mounted electrical power socket within the kitchen is filled and all wiring relative thereto suitably protected,
 - 4) Repair or renew the work top surrounding the kitchen sink unit ensuring that it is in a reasonable state of repair and in proper working order.
 - 5) Install a smoke detector within the living room, ensuring that it is powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 and interconnected with the existing smoke and heat appliances currently located within the kitchen and hall.
 - 6) Repoint and repair defective joints around the base of the patio doors ensuring that they are in a reasonable state of repair and in proper working order.
 - 7) Repair or renew broken and defective paving slabs in the rear garden ensuring that they are in a reasonable state of repair and in proper working order.
 - 8) Repair or renew cracked, broken and defective rendering and coping at the chimney ensuring that they are in a reasonable state of repair and in proper working order.
 - 9) Repair renew or remove the timber gate leading to the rear garden, ensuring that it is in a reasonable state of repair and in proper working order should it remain.

The Tribunal ordered that the works required by the Order must be carried out and the Electrical Condition Installation Report exhibited within two months of the date of service of the Order on the Landlord.

3. The Ordinary/Surveyor Member of the Tribunal re-inspected the Property on the morning of 17 March 2020 and reported that all the work required by the Order had been completed, apart from Items 3) and 8).
4. On 15 June 2020, the Landlord provided the Tribunal with a copy of an Electrical Installation Condition Report ("EICR") dated 12 March 2020. Provided by M.Haining Limited, Langholm. The EICR stated that Mr Haining was a member of SELECT and that the overall condition of the installation was good and there were no Category C1 or C2 items of disrepair. The Tribunal was satisfied with the EICR.

5. In his e-mail of 15 June 2020, the Landlord asked the Tribunal to grant an extension of time for him to complete the other outstanding item as he had experienced difficulty in arranging the repair to the chimney.
6. On 16 June 2020, the Third Party Applicant advised the Tribunal that they had no objection to the extension sought by the Landlord and the Tribunal decided to Vary the Order, giving the Landlord a further period of three months within which to complete the outstanding works.
7. On 5 October 2020, the Landlord advised the Tribunal that the work required by the Order was now complete and he provided the Tribunal with photographs showing the rendering and coping of the chimney.

Findings of fact

8. The Tribunal makes the following finding of fact.
 - The Landlord has completed the works required to the chimney as required by the Order.

Reasons for Decision

9. Due to COVID-19 restrictions, the Tribunal was unable to carry out a physical reinspection of the Property but, given present circumstances, it was prepared to accept photographic evidence that the outstanding repairs had been carried out.
10. The Tribunal was satisfied that the photographs provided by the landlord indicated that the work to the chimney had been carried out satisfactorily. This meant that all the work required by the Order had now been completed.

Decision

11. The Tribunal determined that the work required by the Order had been carried out to the Tribunal's satisfaction and that a Certificate of Completion of Works should be issued under Section 60 of the Act.
12. 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.

Signed **George Clark** Legal Member/Chairperson

Date: 7 October 2020