

Housing and Property Chamber

First-tier Tribunal for Scotland



DETERMINATION by the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 60 of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/RT/16/0183

Re: Property at The Annexe, Drumlovat, Longside, AB42 4YE ("the Property")

Title No: ABN81383

The Parties:-

ABERDEENSHIRE COUNCIL, Gordon House, Blackhall Road, Inverurie, AB51 3WQ ("the Third Party Applicant")

MRS SUSAN PATERSON, formerly residing at The Annexe, Drumlovat, Longside, AB42 4YE ("the Tenant")

MR LEON MARK BINGHAM and MRS ZENA BINGHAM, 51 Aldene Road, Sheffield, S6 4BR ("the Landlords")

Tribunal Members:-

Gillian Buchanan, Legal Member
Mark Andrew, Ordinary Member

Background

1. On 2 August 2016, the Private Rented Housing Committee ("the Committee") issued a Determination which decided that the Landlords had failed to comply with the duty 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 House.
2. In the RSEO the Committee ordered that the works specified be carried out and completed within a period of 8 weeks.
3. On 29 November 2016 the Committee issued a determination that that the Landlords had failed to comply with the RSEO in terms of section 26(1) of the 2006 Act and served notice of the Landlords failure to comply on Aberdeenshire Council in terms of section 26(2) of the 2006 Act. The Committee also determined that the Landlords failure to comply should be

reported to the Police for consideration of prosecution in terms of section 28(1) of the 2006 Act.

4. On 26 September 2019 the Tribunal received an email from the Landlords indicating that all the works required in terms of the RSEO were now complete.
5. On 13 December 2019 the Ordinary (Surveyor) Member of the Tribunal, Mr Mark Andrew, carried out an inspection of the Property. The Ordinary Member of the Tribunal prepared a Re-inspection Report.
6. The Tribunal carefully considered the Re-inspection Report and the Landlords' representations. The Tribunal concluded that all the works required in terms of the RSEO had not been carried out and determined that the works were not complete.
7. By email dated 29 September 2020 the Landlords' representative, Mr Jordan Watt of Aberdeen Considine, Solicitors, Peterhead advised the Tribunal that all works required in terms of the RSEO had been completed and photographic evidence to that effect was attached.
8. On 5 October 2020 the Landlords emailed the Tribunal stating that the central heating in the Property is working, that the electrical supply is on and that there is oil in the tank.
9. On 14 October 2020 the Ordinary (Surveyor) Member of the Tribunal, Mr Mark Andrew, carried out an inspection of the Property. The Ordinary Member of the Tribunal prepared a Re-inspection Report which is attached hereto along with a Schedule of Photographs.
10. The Re-inspection Report disclosed that there was only one outstanding item of work required. In particular the RSEO required that the Landlords obtain a report from a suitably qualified electrician on the heating and hot and cold systems to ensure that they are in a reasonable state of repair and in proper working order. The Landlords required to exhibit such a report to the Tribunal. No report has been received and it was not possible for the Ordinary Member to test the central heating during the Re-inspection because each time the boiler was switched on the electrical consumer unit trip switch cut off the supply after about 20 seconds.
11. The Re-inspection Report was intimated to the parties on 15 October 2020.
12. By email dated 16 October 2020, the Landlords' representative, Mr Jordan Watt of Aberdeen Considine, Solicitors, Peterhead forwarded to the Tribunal an email dated 15 October 2020 from Euan Stephen of Easyheat Limited which stated:-

"Survey and report for Drumlovat Annex Longside.

We were called to the house to test the heating system in the annex. We found the heating system had been drained down for insurance purposes. We filled the heating system and tested the boiler, radiators domestic hot water cylinder and controls.

All radiators heated successfully as well as the hot water."

The Tribunal was also provided with a copy of an invoice from Easyheat Limited dated 15 October 2020 in the sum of £191.41 which stated:-

"We were called to the house to refill the heating system and test the boiler, radiators and controls.

On investigation we found the braided oil hose to be split and leaking. We traveled to the wholesaler for a new hose and returned to fit."

Determination

13. The Tribunal having carried out a re-inspection and considered the Landlords' response thereto considered that all works required in terms of the RSEO have been carried out and is able to certify that the work has been done. Accordingly the Tribunal determined to issue a Certificate of Completion in respect of the Property.

Appeal

14. In terms of Section 46 of the Tribunal (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.

Signed

Date: 26 October 2020

 Legal member