

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 60 of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/RT/16/0138

Property at 1 Dornock Mill, Dornock, Annan, DG12 6TJ being the subjects registered in the Land Register of Scotland under Title Number DMF12080 ('the House')

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')

Hope- Vere Anderson residing at Barbeth, New Abbey, Dumfries, DG2 8DB ('the Landlord')

Miss Jade Boyle residing formerly at 1 Dornock Mill, Dornock, Annan, DG12 6TJ ('the former Tenant')

The First-tier Tribunal for Scotland (Housing and Property Chamber), formerly the Private Rented Housing Committee, ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Lorraine Charles (Ordinary Member).

Background

- 1 . An application was made in by the Third Party Applicant in connection with alleged failures by the Landlord to comply with the duties imposed by section 14 (1) (d) of the Housing (Scotland) Act 2006 ("the 2006 Act").
2. Subsequent to that application, a hearing took place and the Tribunal issued a decision dated 9th August 2016 indicating that the Landlord had failed to comply with the various duties imposed upon him by the Act and the Tribunal issued a Repairing Standard Enforcement Order (RSEO) in respect of the House, which required the Landlord to carry out the following works by 30th November 2016:

1. *Instruct a competent gas central heating engineer to inspect the central heating system and carry out such repairs that are required to render it in proper working order. Following completion of the said works the Landlords are required to provide the Committee with a report from the said central heating engineer confirming that the central heating system is in proper working order.*

2. *Commission a report from a dampness specialist and carry out the recommended works to render the property water tight.*

3. The date for completion of the required works was subsequently extended to 30th September 2017.

3. The Tribunal carried out re-inspections of the House on 31st March 2017, 12th January 2018 and 8th November 2019. The works had not been completed. A copy of the last reinspection report dated 8th November 2019 is annexed and executed as relative hereto.

4. On 4th May 2020 the Tribunal Administration received an email from the Landlord in the following terms:

'I have written before stating that the property is not occupied by anyone not even my son. I had a meeting with representatives from the council at the property and agreed that no one would live at the property. It is unfurnished and I am paying council tax on the property. I am in the at risk category with underlying health conditions and following lockdown guidelines and self isolating at home. As soon as I am able to safely leave my home I will arrange to meet trades men to carry out any work required.'

5. On 16th July 2020 the Tribunal Administration sent an email to the Landlord enquiring if the works had been carried out. No response was received.

6. On 31st August 2020 the Tribunal Administration sent a further email to the Landlord enquiring if the works had been carried out.

7. The Tribunal Administration received an email from the Landlord dated 1st September 2020 advising that he was suffering from ill health and had been avoiding contact with anyone. He did not state if the works had been completed.

Determination

8. The Tribunal having carried out a re-inspection on 8th November 2019 and found that the required works had not been completed and having noted the emails from the Landlord dated 4th May 2020 and 1st September 2020, the Tribunal are

not satisfied that all necessary works in accordance with the RSEO have been completed and accordingly are unable to certify that the work has been completed. Accordingly, the Tribunal have determined to refuse to issue a Certificate of Completion in respect of this property.

Right of Appeal

9. 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.

J Taylor

.....

15th September 2020

Chairperson