



**First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”)**

**Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 60 of the Housing (Scotland) Act 2006 (“the 2006 Act”) – Certificate of Completion**

**Re: 38 Tiree Court, Irvine, North Ayrshire, KA11 (“the House”)**

**Title number: AYR 45712**

**Chamber Ref: FTS/HPC/RP/23/3360**

**Mr Martin Grant, residing at the House (“the Tenant”)**

**Mr John Scott, 8B Park Terrace, Ayr, KA7 2AN (“the Landlord”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and Donald Wooley (Ordinary Member)**

## **DECISION**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), with reference to the Repairing Standard Enforcement Order (“RSEO”) dated 29 January 2024, as varied on 26 March 2024, and, having considered the application by the Landlord for a Certificate of Completion of Works and the outcome of the Tribunal’s subsequent further enquiries in this regard, the Tribunal determined that a Certificate of Completion of Works should be issued in terms of Section 60(4) of the 2006 Act.**

## **Background**

1. By application received on 22 September 2023, the Tenant applied to the Tribunal in terms of Section 22 of the 2006 Act claiming breach of the Repairing Standard by the Landlord in respect of various repair issues affecting the

House. The application was submitted on behalf of the Tenant by Mrs Andrea Gibson, Advice and Information Officer, of CHAP who is representing the Tenant in these proceedings. On 9 October 2023, the application was accepted and notified to the Landlord and parties were notified of the date, times and arrangements for an Inspection and Hearing to take place. Detailed written representations were lodged by the Landlord on 20 November 2023, attaching some supporting documentation.

2. The Tribunal Members inspected the House on 11 January 2024 at 10am. Both the Tenant and Landlord were in attendance. A Hearing took place thereafter by telephone conference call at 2.30pm. Both the Tenant and Landlord were again in attendance as was the Tenant's representative, Ms Andrea Gibson, of CHAP.
3. Following the Hearing, the Tribunal issued a Repairing Standard Enforcement Order ("RSEO") dated 29 January 2024 in the following terms:-

*"Whereas in terms of their decision dated 29 January 2024, The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act') and in particular that the Landlord has failed to ensure that the House meets the repairing standard with reference to the following provisions of Section 13 of the Act, as amended:-*

- (a) the house is wind and watertight and in all other respects reasonably fit for human habitation;*
- (c) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;*
- (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and*

*the Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.*

*In particular, the Tribunal requires the Landlord to:-*

- 1) Investigate and repair, renew or replace the defective door entry "buzzer" system, to ensure that it is in a reasonable state of repair and in proper working order.*

2) Investigate and repair or replace the defective hot water tap (sink) in the bathroom ensuring that that it is in a reasonable state of repair and in proper working order.

3) Instruct a suitably qualified damp specialist to undertake a detailed survey of the bedroom and surrounding area, to identify the cause and full extent of the dampness and any necessary remedial action. Any reports, quotations or receipts in respect of the repairs should, when available, be submitted to the Tribunal for consideration. Thereafter all necessary repairs to remedy the dampness and any associated defects should be completed, and any resultant decoration made good to ensure that the House is in a reasonable state of repair, wind and watertight and in all other respects reasonably fit for human habitation.

4) Repair the residual damage between the mutual hall/bathroom wall and skirting board in the entrance hall and make good the decoration in that area to ensure that it is in a reasonable condition and state of repair.

*The Tribunal order that the works specified in this Order must be carried out and completed within a period of **8 weeks** from the date of issue of this Order.”*

4. Following the issue of the RSEO, the Landlord provided several email updates regarding the required repairs to the Tribunal and the Tenant's representative also provided an update. Some repairs had been carried out in respect of the door entry buzzer, the hall decoration and the bathroom taps/sink. The Landlord had instructed a damp specialist who had recommended certain interior works be carried out to the bedroom wall. However, the Landlord advised that he had also been in contact with North Ayrshire Council, as property factor, who had attended regarding the common exterior works required. They had recommended that the exterior works be completed first and that they may also carry out some of the interior works required in respect of the dampness. Accordingly, the Landlord proposed to hold off instructing his damp specialist until North Ayrshire Council had attended to the repairs they were proposing. The Council had also been in direct contact with the Tenant regarding the matter. The Landlord did not anticipate that the works to be carried out by the Council would be completed in the timescale allowed by the RSEO. The Tribunal determined that, in the circumstances, further time should be allowed for the work required in terms of the RSEO to be carried out and that the RSEO should be varied by extending the time for completion of the work for a further approximately 6 weeks, until 10 May 2024. A formal Variation of the RSEO and related Decision dated 26 March 2024 were accordingly issued by the Tribunal.
5. On 10 June 2024, parties were subsequently advised that the Tribunal would carry out a Re-inspection of the House on 9 August 2024.

#### **Re-inspection – 9 August 2024**

6. The Tribunal carried out a Re-inspection of the House on 9 August 2024 at 10am. Only the Tenant was in attendance. The Tribunal noted on Re-inspection that repairs had been carried out and that items 1, 2 and 4 of the RSEO had been complied with. However, item 3 of the RSEO was outstanding in that no detailed damp specialist report identifying the source of the internal damp and

necessary remedial action had been submitted to the Tribunal and the high internal moisture readings remained. The Re-inspection Report, containing photographs, prepared by the Ordinary Member and dated 9 August 2024 was issued to parties on 12 August 2024. The Report concluded:-*“It is essential that a more detailed, investigative timber/damp report is obtained from a suitably qualified contractor and submitted to the Tribunal for consideration with the minimum of delay”*.

7. In response, further emails were received from the Landlord, explaining the involvement and prior findings of North Ayrshire Council, as property factor. They had found no damp in the interior bedroom wall, which contradicted the findings of the Tribunal. The Landlord provided a copy of a Report from a timber preservation company dated 20 February 2024 which had not previously been provided to the Tribunal. This identified the likely cause of the damp in the wall as rising damp and recommended certain remedial works. The Landlord explained that he had not instructed those works at the time, due to the Council’s subsequent findings of no internal damp and the exterior works then carried out by them. However, on 15 August 2024, the Landlord confirmed that the works required in respect of the internal damp would now be completed.

#### **Re-inspection 2 – 21 November 2024**

8. The Tribunal carried out a second Re-inspection of the House on 21 November 2024. Again, only the Tenant was in attendance. The Tribunal noted on Re-inspection that the outstanding repairs required in terms of item 3 of the RSEO had now been completed. Moisture meter readings taken at the areas within the front bedroom where damp had previously been identified confirmed that there was no longer any evidence of damp. There was also evidence that sections of the plaster at the front wall and the mutual wall with the common entry hall had been renewed as part of the remedial action. The second Re-inspection Report, containing further photographs, was issued to parties on 21 November 2024. No comments were received from either party in response so the Tribunal proceeded to determine the matter.

#### **Reasons for decision**

1. The Tribunal considered the terms of the RSEO, the written representations and documentation produced since and their findings on Re-inspection and further Re-inspection. The Tribunal determined that all the works required to the House in terms of the RSEO had now been completed to their satisfaction and that the Repairing Standard was met.
2. The Tribunal is accordingly of the view that it is now appropriate to grant a Certificate of Completion of Works in terms of Section 60(4) of the 2006 Act.
3. The decision of the Tribunal is unanimous.

## Right of Appeal

**A landlord, tenant or third party applicant 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.**

In terms of Section 63 of the Act, 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.

N Weir

Signed..... Date: 19 December 2024

Nicola Weir, Legal Member of the Tribunal