

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 60(5) of the Housing (Scotland) Act 2006

Chamber REF:PRHP/RP/13/0119

Re 46 Townend Street, Dalry, KA24 4AD being the subjects registered in the Land Register of Scotland under title number AYR3661 ('the Property')

The Parties:-

Eric Moran residing at 46 Townend Street, Dalry, KA24 4AD ('The former Tenant')

4 Square Property Limited, being a company registered under the Companies Acts and having its registered office at Glenetive, Auchengate Sawmill, Irvine, KA11 5BQ. ('The Landlords')

Tribunal members:

Jacqui Taylor (Chairperson) and Donald Wooley (Ordinary Member).

Notes: (1) The original surveyor member of the Committee was George Campbell (2) The original Landlord was land AK Limited and (3) The Tenant has vacated the Property.

1. The Private Rented Housing Committee ('the Committee') issued a Repairing Standard Enforcement Order ('RSEO') in respect of the Property which required the Landlords to :-

- 1. Repair, replace or remove the chimney stack to render the roof wind and watertight.*
- 2. Eradicate the dampness in the lounge and kitchen and carry out necessary redecoration.*

2. The Committee ordered that the works specified in the RSEO were to be carried out and completed by 31st March 2014, which was subsequently varied to 30th September 2014.

3. The original surveyor member of the Committee inspected the Property on 14th April 2014, 24th July 2014 and 25th November 2014. The reinspection reports have been previously exhibited to the parties. On 13th February 2015 the Committee issued a Decision to the effect that the terms of the Repairing Standard Enforcement

Order had not been complied with. They also issued a rent relief order reducing the rent by 75%.

4. The Tenant vacated the Property and it was subsequently sold to SAVA Estates Limited on 22nd January 2016. Thereafter it was sold to the Landlords on 10th August 2017.

5. On 1st December 2016 jurisdiction of the Private Rented Housing Panel passed to the Housing and Property Chamber.

6. On 15th January 2018 the Ordinary member of the Tribunal inspected the Property to determine if the works required by the RSEO had been completed. He confirmed that the chimney stack had been removed but there was still dampness at the internal mutual wall and plasterboard lining between the living room and the kitchen. Also there was evidence of damp affecting the ceiling lining adjacent to the mutual wall within both the kitchen and the living room. His reinspection report is annexed and executed as relative hereto.

7. On 4th May 2018 the Tribunal carried out an inspection of the Property for the purpose of ascertaining whether the repairs required by the RSEO had been completed.

The Tribunal found:

7.1 There was no evidence of dampness at the kitchen ceiling. Moisture readings were taken where damp had previously been identified. No evidence of damp was noted. Since the previous inspection (15 January 2018) a section of new plasterboard on the ceiling, running the width of the room and extending into the kitchen by approximately 500mm had been erected. The surrounding area has been redecorated and it blends well with the original ceiling.

7.2 The ceiling plaster in the living room adjacent to the chimney breast and mutual wall with the kitchen was dry. At the previous inspection, moisture readings proved positive at a significant section of ceiling plaster in this area. The Ordinary member of the Tribunal took damp meter readings randomly at the same area and identified that most of the ceiling plaster was dry. There were two small, and very localised areas, displayed positive readings of between 25 – 50%. However the immediate surrounding plaster and corresponding area within the roof void were dry. They considered that it is likely that these isolated readings reflect relatively minor residual damp in the plasterwork which should become dry through time.

7.3 There was no evidence of recent water ingress in the roof void. Sections of timber sarking in the roof void had recently been renewed as part of a roof repair. However moisture readings taken at the surrounding area, corresponding with the ceiling plaster above both the kitchen and living room, and at the adjoining roof framing identified no sign of recent water ingress.

Photographs taken at the inspection are annexed and executed as relative hereto.

8. Following the inspection of the Property the Tribunal held a hearing at 11.30 am at the Dalry Community Centre. The Landlords did not attend and were not represented.

Decision

9. The Tribunal were satisfied that the terms of the RSEO had been satisfactorily completed as there was no evidence of water ingress to the roof or dampness in the lounge and kitchen and therefore they determined to certify that the terms of the RSEO had been completed.

10. The decision of the Tribunal was a unanimous decision.

11. Appeals

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.

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.

Jacqueline Taylor

Signed.....
Chairperson

..... Date 8th May 2018

Housing and Property Chamber

First-tier Tribunal for Scotland



First-Tier Tribunal for Scotland (Housing and Property Chamber) Re-inspection report

Jacqueline Taylor



Property 46 Townend Street Dalry KA24 4AD

Ref No: PRHP/RP/13/0119

Surveyor: Donald Wooley MRICS

Previous inspection

The subject property was originally inspected on 18th December 2013 by the Private Rented Housing Committee (PRHC). A Repairing Standard Enforcement Order was served on 20th December 2013. On 14th April 2014 George Campbell, the original surveyor member of the PRHC, attended the property and prepared a re-inspection report listing a number of outstanding works. Due to the landlord being unable to secure access to the property in order to complete the necessary works, a further re-inspection and hearing were held on 24th July 2014. A Notice of Variation to the RSEO (Repairing Standard Enforcement Order) was served on 28th July 2014 extending the period allowed for the completion of the works to 30th September 2014.

On 25th November 2014 the original surveyor member undertook a further re-inspection and established that a number of works relating to the RSEO, as subsequently varied, remained outstanding. On 13th February 2015 a Rent Relief Order was issued by the chairperson of the PRHP reducing the rent payable by an amount of 75% of the rent which would, but for the order, be payable. Notice was given to North Ayrshire Council that there had been a failure to comply with an RSEO.

The tenant vacated the property and it was subsequently sold to SAVA Estates Ltd, with an entry date of 22 January 2016. On 24th August 2017 there is a further recorded sale of the property by SAVA Estates Ltd. to the present owner "4 Square Property Ltd." for the sum of £36,000 with an entry date of 10th August 2017.

The Private Rented Housing Committee, as part of the Private Rented Housing Panel, was subsequently replaced by the First-tier Tribunal for Scotland (Housing Property Chamber) with effect from 1st December 2016.

Access:

A re-inspection of the subject property was arranged for Monday 15th January 2018 at 10.00 am. I arrived at the property shortly before the appointed time. Access was provided by, Mrs Christina Mair "Director/Landlord", 4 Square Property Ltd. At the time of the inspection there was no one in residence and the property was unfurnished.

I left the property at 10.55 am and confirmed my departure with administration.

Weather conditions at the time of inspection were dry, cold and sunny.

Purpose of re-inspection

The purpose of this re-inspection was to determine if the required works as detailed under the original Repairing Standard Enforcement Order, as amended in the subsequent Notice of Variation, had been completed.

Work required under the Repairing Standard Enforcement Order (RSEO):

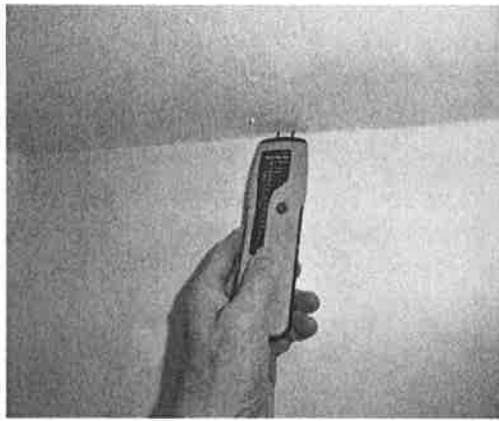
The following works were required to be completed by the landlord in accordance with the original Repairing Standard Enforcement Order:-

1. Repair, replace or remove the chimney stack to render the roof wind and watertight.
2. Eradicate the dampness in the lounge and kitchen and carry out any necessary remedial work to internal wall and ceilings finishes and all necessary associated redecoration.

At the subsequent re-inspections it was established that while the chimney stack had been removed damp remained an issue at the internal mutual wall and plasterboard lining between the living room and kitchen. Damp was also evident affecting the ceiling lining adjacent to the mutual wall within both the kitchen and living room. Redecoration of the affected areas was also necessary.

Site Observations:

1. Living room ceiling/wall

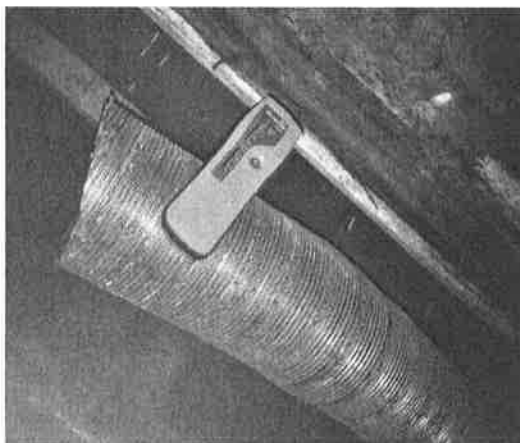


2. Kitchen ceiling/wall



Moisture content of around 60/65% at Living room and kitchen mutual wall, plasterboard lining and ceiling. Some slight staining remains evident at the living room ceiling

2. Front roof pitch rafter



4. Remains of chimney breast in attic



Moisture content of around 60% at front rafter. Other residual staining at rafters adjacent to former chimney breast is now dry.

A significant proportion of the underfelt between the timber sarking and slates above the kitchen and living room is missing or has disintegrated.

5. Front roof pitch.



6. Front roof pitch and hip



Random historic repairs are evident to roof slating, specifically at the front roof pitch and a number of repairs remain outstanding. The roof slating is almost entirely original and is displaying considerable evidence of wear and tear.

Internally the property has undergone a scheme of redecoration and repainting and this specifically includes both the kitchen and living room. Minor damp staining is visible although the decoration is of an acceptable standard.

Comments:

In accordance with the terms of the original RSEO the chimney head has been removed together with a significant proportion of the chimney construction within the roof void. This was completed around February/March 2014. A sufficient period of time has elapsed since its removal to confirm that it is no longer the source of the damp in the kitchen and living room.

Roof slating on the front roof pitch is in a relatively poor condition and is almost certainly remains the source of the dampness. Historically repairs to the roof slating have been completed and Mrs. Mair of 4 Square Property provided a receipted, although unheaded, invoice dated 1st September 2017 for the sum of £120. This was for the replacement of 14 slates "on various parts of the roof".

I confirm having undertaken the re-inspection of the property on 15th January 2018. The original surveyor, present at all of the previous inspections is no longer available. My observations are therefore based on what was visible during my inspection together with the information provided to me via the original/subsequent determinations and RSEO as subsequently varied.

This report will be passed to the parties for comment before being submitted to the First-tier Tribunal for Scotland (Housing Property Chamber) for their decision.

Donald Wooley MRICS
Ordinary Member
First-Tier Tribunal for Scotland
15 October 2018

46 Townend Street Dalry KA24 4AD

Schedule of Photographs taken at the inspection on 4th May 2018



1. External View



2. Kitchen ceiling 4 May 2018



3. Kitchen ceiling 15 January 2018



4. Living room ceiling 4 May 2018



5. Living room ceiling 15 January 2018



6. Roof timbers 4 May 2018



7. Roof timbers 15 January 2018



8. Front roof 4 May 2018



9. Front roof 15 January 2018