

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Certificate of Completion of Work under Section 60 of the Housing (Scotland) Act 2006 as amended ("the Act")

Chamber Ref: PRHP/AB55/116/09

Title Number: BNF8016

Property at 95 Main Street, Newmill, Keith, AB55 6TS ("the House")

The Parties:-

The late Mr Robert Munro residing at 95 Main Street, Newmill, Keith, AB55 6TS ("the Tenant")

and

Mr David Carson residing at 82a Land Street, Keith, AB55 5AN ("the former Landlord")

And

Mrs Lesley Smith residing at Strathlene House, Calcots, Elgin, IV3 8NB ("the Landlord")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') hereby certifies that the work required by the **Repairing Standard Enforcement Order ("RSEO")** relative to the Property served 4 May 2010 has been completed. Accordingly, the said RSEO relative to the property has been discharged.

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.

In witness whereof these presents type written on this and the preceding page(s) are executed by Ewan K Miller, Chairman, Solicitor, Thorntons Law LLP, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Tribunal at Dundee on 29 December 2017 before this witness:-

E Miller

Chairperson

L Johnston

____ (witness)

Lindsay Johnston
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006

Chamber Ref: PRHP/AB55/116/09

Property at 95 Main Street, Newmill, Keith, AB55 6TS ("the Property")

The Parties:-

The late Mr Robert Munro residing at 95 Main Street, Newmill, Keith, AB55 6TS ("the Tenant")

and

Mr David Carson residing at 82a Land Street, Keith, AB55 5AN ("the former Landlord")

And

Mrs Lesley Smith residing at Strathlene House, Calcots, Elgin, IV3 8NB ("the Landlord")

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal"), having made such enquiries as was appropriate for determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property concerned and taking account of the subsequent reinspection of the Property, determined that the Landlord had complied with the terms of the RSEO and resolved to issue a Certificate of Completion in respect of the works required by the RSEO. The Tribunal also resolved to revoke the Rent Relief Order ("RRO") in place over the Property.

Background

- 1. By way of a Decision dated 4 May 2010, the Private Rented Housing Panel had issued a Determination that the former Landlord had failed to comply with the duties imposed upon him by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").**
- 2. The Private Rented Housing Panel had placed an RSEO on the Property also dated 4 May 2010, the RSEO required the former Landlord:-**
 - (a) to carry out such works as are necessary to stop damp penetration through the living room chimney and living chimney wall;**

- (b) to carry out such works as are necessary to eradicate the rising dampness within the Property;
- (c) to repair or replace, as appropriate, all rotten skirting boards and doorframes within the living room caused by the damp penetration;
- (d) To carry out such other works as are generally necessary to dry out the interior of the Property and thereafter to redecorate the interior of the living room;
- (e) To install, in accordance with the relevant fire regulations, a hardwired interlinked smoke alarm system on both the ground and first floors of the Property;
- (f) To carry out such works as are necessary to ensure there are no further leaks from the exterior of the flat roof into the bathroom of the Property including the repair or replacement of the rotten barge boards on the rear extension;
- (g) The repair or replacement of the plasterboard ceiling within the bathroom and such subsequent redecoration works as may be required to bring the ceiling back to an appropriate standard.

The RSEO required the works to be carried out within 2 months from the date of service of the RSEO.

3. In due course the Private Rented Housing Panel had reinspected the Property and found that the former Landlord had not carried out any of the works required in the RSEO. On 17 August 2010 the Private Rented Housing Panel issued a further determination that the former Landlord had failed to comply. They also issued an RRO at 90% arising as a result of the former Landlord's failure. The matter was reported to the police for consideration for prosecution and also to the relevant local authority. No further correspondence was received from the former Landlord and the matter fell into abeyance.
4. On 1 December 2016, by virtue of Schedule 1 of the First-Tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committee) Regulations 2016 the work of the Private Rented Housing Panel transferred to the Tribunal. This Tribunal therefore has the jurisdiction to deal with the application by the late Tenant.
5. In July 2017 it came to light that a new Landlord had acquired the Property – Mrs Lesley Smith. After discussion with her, the Landlord advised that she had carried out refurbishment works to the Property and was happy for it to be inspected. She had been unaware of the existence of the RSEO.
6. On 6 October 2017 the Property was inspected by Mr Robert Buchan, Ordinary Member of the Tribunal and the original surveyor who inspected the Property in 2010. Mr Buchan reported that the Property had been extensively refurbished since the date of the original inspection and hearing in 2010. The

gable wall and stack had been repointed, the living room walls had been dry lined with plasterboard. The rotten skirting boards and doorframes had been replaced. The interior had been redecorated, including a redesign of the layout and installation of a new kitchen. A heat detector had been provided in the kitchen and a smoke detector on the first floor landing. The flat roof and bargeboards had been replaced. The ceiling of what was now a shower room and the rear bedroom had been replaced and redecorated. All in all the Tribunal was delighted to see the improvement in the Property. The Tribunal did note that there was no smoke detector in the living room or hall as required by the relevant regulations. There was also a small area where higher moisture meter readings were noted in the hallway. Subsequent to the inspection the Landlord provided appropriate evidence that she had now carried out an installation of the necessary smoke detectors.

7. The Tribunal, consisting of Mr E K Miller, Chairman and Legal Member and Mr Robert Buchan, Ordinary Member and Surveyor considered the condition of the Property. The Tribunal was satisfied that the necessary works had now been carried out and the Property had been significantly improved. The Tribunal did notice the small area of dampness in the hall but considered that this was *de minimis* and did not impact on compliance with the repairing standard. On that basis the Tribunal determined that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act would be granted. The RRO should, for the sake of completeness, also be revoked.
8. A copy of the reinspection report and associated photographs are attached for information.

Decision

9. The decision of the Tribunal was to lift the RSEO and grant a Certificate of Completion discharging the RSEO. The Tribunal also determined to revoke the RRO.
10. The decision of the Tribunal was unanimous.

Right of Appeal

11. 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.

Effect of section 63

12. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the

decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **E Miller**

Date 22/12/17
Chairperson

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Revocation of Rent Relief Order: Housing (Scotland) Act 2006 Section 27(4)

Chamber Ref: PRHP/AB55/116/09

Property at 95 Main Street, Newmill, Keith, AB55 6TS ("the House")

The Parties:-

The late Mr Robert Munro residing at 95 Main Street, Newmill, Keith, AB55 6TS ("the Tenant")

and

Mr David Carson residing at 82a Land Street, Keith, AB55 5AN ("the former Landlord")

And

Mrs Lesley Smith residing at Strathlene House, Calcots, Elgin, IV3 8NB ("the Landlord")

NOTICE OF REVOCATION

The Private Rented Housing Committee hereby gives notice that the work, required by the **Repairing Standard Enforcement Order** relative to the House served on 4 May 2010 has been completed. Accordingly, the Rent Relief Order relative to the house is revoked.

Reference should be made to Sections 63 (4) and (5) of the Housing (Scotland) Act 2006 for information as to the date when the revocation will take effect. To ascertain the last date on which the decision can be appealed which is referred to in Section 63(5), please refer to the information note on appeals and reviews, a copy of which is attached.

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.

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.

.....**E Miller**

Legal Member and Chair

Date: 29/12/17

This is the re-inspection report and schedule of photographs referred to in the foregoing decision

E Miller

Housing and Property Chamber
First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)
Housing (Scotland) Act 2006
Property Re-inspection Report



Property address: 95 Main Street, Newmill, Keith, AB55 6TS

Chamber Reference Number: PRHP/AB55/116/09

Date of re-inspection: 6th October 2017

Surveyor: R Buchan, FRICS

Circumstances of inspection: The weather was dry following a changeable spell of weather. A full inspection of the property was provided.

In attendance: Mr John Shorten, a new tenant who has been in occupation for about 18 months.

Repairing Standard Enforcement Order (RSEO)

In 2010, an RSEO was served on the Landlord at the time, David Allan Carson, following an inspection and hearing of the Private Rented Housing Panel. By schedule 1 of the First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (the Regulations), determination of, and proceedings related to, the Application by the Tenant transferred to the First-tier Tribunal: Housing and Property Chamber as at 1st December 2016.

The Landlord was required to carry out the following work under the terms of the RSEO:

- (a) to carry out such works as are necessary to stop damp penetration through the living room chimney and living chimney wall;
- (b) to carry out such works as are necessary to eradicate the rising dampness within the property;
- (c) to repair or replace, as appropriate, all rotten skirting boards and doorframes within the living room caused by the damp penetration;
- (d) to carry out such other works as are generally necessary to dry out the interior of the Property and thereafter to redecorate the interior of the living room;
- (e) to install, in accordance with the relevant fire regulations, a hardwired interlinked smoke alarm system on both the ground and first floors of the Property;
- (f) to carry out such works as are necessary to ensure that there are no further leaks from the exterior of the flat roof into the bathroom of the Property including the repair or replacement of the rotten barge boards on the rear extension;
- (g) The repair or replacement of the plasterboard ceiling within the bathroom and such subsequent redecoration works as may be required to bring the ceiling back to an appropriate standard.

It is understood that the tenant at the time of the application, Mr Robert Munro, vacated the property at some later date and that the property was subsequently sold to a Ms Lesley Smith.

Works carried out

The following work has been undertaken since the original inspection and hearing:

- 1) The gable wall and stack have been repointed.
- 2) The living room walls have been dry lined with plasterboard.
- 3) The rotten skirting boards and doorframes have been replaced.

4) The interior has been redecorated including a re-design of the layout and installation of a new kitchen.

5) A heat detector has been provided in the kitchen and a smoke detector on the first floor landing.

6) The flat roof and bargeboards have been replaced.

7) The ceiling of what is now a shower-room, and the rear bedroom has been replaced and redecorated.

Outstanding works

(i) There is no smoke detector in the living room or hall

(ii) High instrumental moisture meter readings, suggesting a small area of rising dampness, was noted in the hall.

Additional note

The property now has a new kitchen and shower-room together with gas fired central heating and upvc framed double glazing.

Photographs were taken and are attached to this report.

This report will be submitted to the relevant parties for their consideration and comment. Once their submissions, if any, have been received, the Tribunal will determine whether the Repairing Standard Enforcement Order has been complied with and what further action is appropriate.

R Buchan

R Buchan, FRICS
9th October 2017

Schedule of photographs attached to the re-inspection report
95 Main Street, Newmill, Keith, AB55 6TS Ref: 116/09



Gable wall and stack

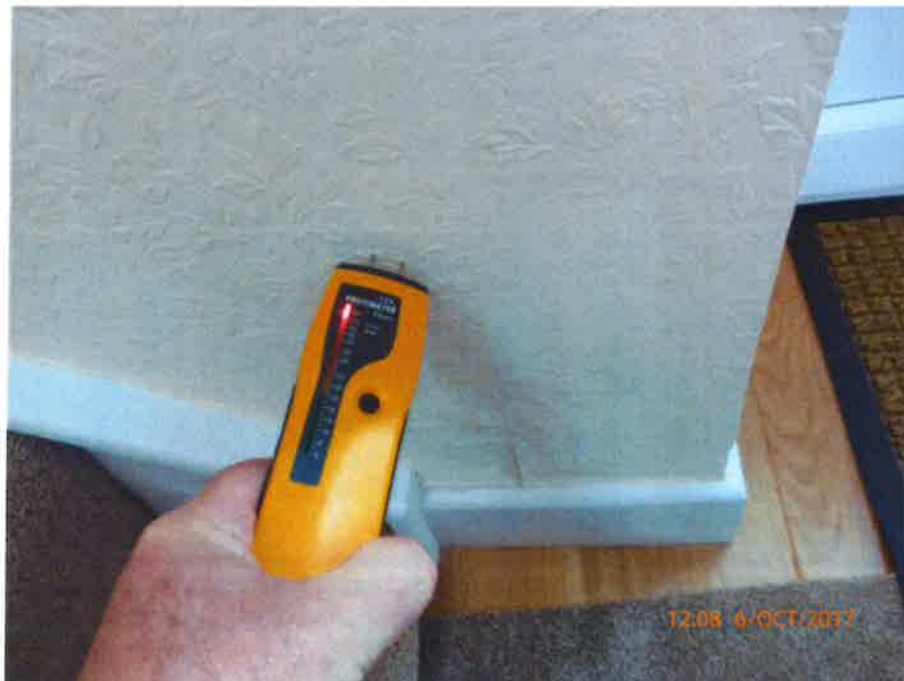


Extension

Schedule of photographs attached to the re-inspection report
95 Main Street, Newmill, Keith, AB55 6TS Ref: 116/09



New flat roof



Dampness in the hall

Schedule of photographs attached to the re-inspection report
95 Main Street, Newmill, Keith, AB55 6TS Ref: 116/09



The living room



The kitchen open to the living room

Schedule of photographs attached to the re-inspection report
95 Main Street, Newmill, Keith, AB55 6TS Ref: 116/09



Heat detector in the kitchen



Smoke detector on the landing

Schedule of photographs attached to the re-inspection report
95 Main Street, Newmill, Keith, AB55 6TS Ref: 116/09



New shower-room



New ceiling in the rear extension