

Housing and Property Chamber First-tier Tribunal for Scotland



Certificate of completion of work

Issued by the Housing and Property Chamber of the First Tier Tribunal for Scotland

(Hereinafter referred to as "the Tribunal")

Under Section 60 of the Housing (Scotland) Act 2006

Case Reference Number: FTS/HPC/RP/18/0339

Re : 2 Gallowhill, Crieff PH7 3HF (also known as "Dunottar", King Street, Crieff PH7 3RR) ("the Property")

Title No: PTH9014

The Parties:-

Mr Arran Davies and Mrs Nicole Davies, 2 Gallowhill, Crieff PH7 3HF ("the Tenants")

Nina Smirnoff and Fiona Anderson , 34 Campbell Drive, Larbert, Stirlingshire FK5 4PR ("the Landlords") represented by Next Home Perthshire, 63 – 65 George Street, Perth PH1 5LB

The Tribunal comprised:-

Mr David Bartos	- Legal member and Chairperson
Ms Sara Hesp	- Ordinary member (Surveyor)

NOTICE TO Nina Smirnoff and Fiona Anderson ("the Landlords")

The Tribunal hereby certifies that the work required by the **Repairing Standard Enforcement Order** relative to the Property dated 22 May 2018 and varied by Notice of Variation bearing the same date as this certificate has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

A landlord or a tenant aggrieved by this decision may seek permission from the Tribunal to appeal on a point of law against this decision to the Upper Tribunal

and that within 30 days beginning with the date when this decision was sent to the party seeking permission.

In witness whereof these presents typewritten on this and the preceding page(s) are executed by David Bartos, Advocate, Parliament House, Parliament Square, Edinburgh EH1 1RF, Chairperson of the Tribunal at Edinburgh on 22 November 2018 before this witness:-

D Bartos

G A Grant

witness

chairperson

G A Grant

name in full

20 WHITE DALES

Address

EDINBURGH

ETHIO 7JQ

DIRECTOR

Occupation

Housing and Property Chamber First-tier Tribunal for Scotland



Decisions of the Housing and Property Chamber of the First Tier Tribunal for Scotland under Section 25 (1)(a) and 60(5) of the Housing (Scotland) Act 2006

Statement of Reasons for Decisions of the Housing and Property Chamber of the
First Tier Tribunal for Scotland

(Hereinafter referred to as “the Tribunal”)

Case Reference Number: FTS/HPC/RP/18/0339

**Re : 2 Gallowhill, Crieff PH7 3HF (also known as “Dunottar”, King Street, Crieff
PH7 3RR) (“the Property”)**

Title No: PTH9014

The Parties:-

**Mr Arran Davies and Mrs Nicole Davies, 2 Gallowhill, Crieff PH7 3HF (“the
Tenants”)**

**Ms Nina Smirnoff and Ms Fiona Anderson , 34 Campbell Drive, Larbert,
Stirlingshire FK5 4PR (“the Landlords”)**

The Tribunal comprised:-

Mr David Bartos	- Legal member and Chairperson
Ms Sara Hesp	- Ordinary member (Surveyor)

Decisions

The Tribunal varies the Repairing Standard Enforcement Order relating to the
Property dated 22 May 2018 by omitting part 3 of said Order ending with the words
“150mm”.

The Tribunal certifies that the work required by the said Repairing Standard
Enforcement Order as varied above, has been completed.

Background:-

1. By letter dated 24 May 2018 from the Tribunal the Repairing Standard Enforcement Order ("RSEO") dated 22 May 2018 was sent to the parties. It is referred to for its terms. There was no appeal against the RSEO. The RSEO required the carrying out of certain works to ensure that the Property was watertight and free of damp. These works required to be carried out within four months from the date of service of the RSEO.
2. The works to be carried out to the Property under the RSEO required:
 1. installation of a damp proof course to the affected areas of the kitchen and living room;
 2. ensuring of proper ventilation in the vicinity of the chimney breast in the rear bedroom and installing a damp proof membrane to the base of the chimney;
 3. raising of the level of the rendering to the external walls from ground level to 150mm above ground level (or reduction of ground level all round by 150mm);

together with the carrying out of such subsequent works to make good all internal and external finishes to place them in a reasonable state of repair and decorative order.
3. By e-mail to the Tribunal dated 4 September 2018 the First Landlord advised that the work under parts 1 and 2 above were being carried out and queried whether there was any need for the work under part 3. She stated that she had been advised that raising the level of the rendering could result in 'significant damage' and lowering the surrounding ground could damage pipe work.
4. The Tribunal interpreted this as an application for a variation of the RSEO to the effect of deletion of part 3. By e-mail from the Tribunal dated 12 September 2018 the Tenants were invited to make representations on the Landlords' e-mail seeking said variation of the RSEO. There was no response from the Tenants.
5. By e-mail to the Tribunal and written representations both dated 18 September 2018 the Landlords advised the the works had been completed and attached documentation. At the same time the Landlords applied for a revocation of the RSEO.
6. On 12 October 2018 the surveyor member of the Tribunal carried out a re-inspection of the Property. The First Tenant and the First Landlord were present.

7. The Re-inspection report prepared by the surveyor member was notified to the parties with an invitation for representations. No representations have been received from any party.

The Evidence

8. The evidence before the Tribunal consisted of:-
 - The Tribunal's Re-inspection report for the Property dated 12 October 2018
 - Photographs (3 No.) attached to the Landlords' e-mail to the Tribunal dated 4 September 2018
 - Invoice from Alliance Preservation Scotland Ltd to the First Landlord dated 12 September 2018 relating to damp works at the Property
 - Certificate of Guarantee from Alliance Preservation Scotland Ltd for rising damp control dated 12 September 2018

Findings of Fact

9. Having considered all the evidence, the Tribunal found the following facts to be established:-
 - (a) The Landlords were issued with an RSEO requiring works to the Property to be completed by 24 September 2018. The works in parts 1 and 2 of the RSEO were carried out on or about 5 September 2018. The paragraphs in the Re-inspection report under the heading "Work Completed" together with the photographs in Appendix 1 of the report are incorporated into this text.
 - (b) Damp meter readings were taken were taken to various areas of the Property, notably to accessible external walls in the rear bedroom, front bedroom, and living room. The moisture levels were within the "green" level on the damp meter.
 - (c) The remaining works in part 3 of the RSEO have not been carried out. be carried out. All low level external vents were found to be clear and above current ground level. There was no disturbance to the external finishes requiring to be made good.

Reasons for Decisions

10. The first issue for the Tribunal was whether the RSEO should be varied so as to delete or omit part 3. The Tribunal has power to vary a repairing standard enforcement order "in such manner as it considers reasonable" (Housing (Scotland) Act 2006, s. 25(1)(a)). The Tribunal took the view that given that on re-inspection of the property all damp meter readings were within acceptable parameters (with the green light showing on the instrument's scale), it was reasonable to dispense with the works in part 3.

The works carried out in part 1 and 2 appeared on re-inspection to have been sufficient to bring the property up to the repairing standard. In these circumstances it was appropriate and reasonable to vary the RSEO to omit part 3.

11. The second issue for the Tribunal was whether the RSEO should be revoked. Given that the remaining work in the RSEO has been completed and the power to revoke exists where the work is no longer necessary it appeared to the Tribunal appropriate to grant a certificate of completion rather than to revoke the RSEO.

Decisions

12. The decisions of the Tribunal set out above were unanimous.

Rights of Appeal & Effect of Section 63 of the 2006 Act

13. A landlord or tenant aggrieved by this decision may seek permission from the Tribunal to appeal on a point of law against this decision to the Upper Tribunal and that within 30 days beginning with the date when this decision was sent to the party seeking permission.
14. Unless the lease or tenancy between the parties has been brought to an end, the appropriate respondent in such appeal proceedings is the other party to the proceedings and not the Tribunal which made the decision.
15. Where such an appeal is made, the effect of this decision is suspended until the appeal is abandoned or finally determined.
16. Where the appeal is abandoned or finally determined by confirming the decision, the decision is to be treated as having effect from the day on which the appeal is abandoned or so determined.

D Bartos

Signed Date: 22 November 2018.....

David Bartos, Chairperson
G A Grant

Signature of Witness..... Date: 22 November 2018

G A Grant

Name of witness:

Address: 20 WHITE OAKS, EDINBURGH, EH10 7JQ

Occupation of witness: DIRECTOR