

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: FTS/HPC/RP/17/0131

Property: flat ground right situated at and known as 10 Avenue Street, Stewarton, Ayrshire, KA3 5AP, being the subjects registered in the Land Register of Scotland under Title Number: AYR32145 ("the Property")

The Parties:-

East Ayrshire Council, Private Section Housing Unit, Civic Centre North, John Dickie Street, Kilmarnock, KA1 1HW ("the Third Party Applicant")

and

Brian Green, residing at 3 MacPhail Drive, Kilmarnock, KA3 7EL ("the Landlord")

Tribunal Members:-

Mr James Bauld – Legal Member

Mr Donald Wooley – Ordinary Member

Background

1. An application was made in March 2017 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 24 July 2017 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 property.
3. Subsequent to the issue of the Repairing Standard Enforcement Order, no indication was received from the Landlord that the required works had been carried out and the Tribunal carried out a further re-inspection. That re-inspection took place on 26 September 2017 and the Tribunal thereafter issued a Rent Relief Order dated 19 January 2018.

J Bauld

4. On 24 May 2019, the Tribunal Administration received an email from the Landlord indicating that in his view all works required in terms of the RSEO were now complete. Accordingly the Tribunal arranged to carry out a further re-inspection of the property and that re-inspection was set to take place on 11 July 2019. Appropriate intimation of the date and time of the re-inspection was sent to the Landlord.
5. On 11 July 2019, the surveyor member of the Tribunal, Mr Donald Woolley, visited the property. He was unable to obtain access to the property which appeared to be vacant. He prepared the re-inspection report based on the observations he could make which were restricted to the external fabric of the building, the common entry close and common stairwell.
6. A copy of the re-inspection report from 11 July 2019 is appended to this decision.
7. A copy of the re-inspection report was sent to the Landlord and he was invited to comment upon same. No response was received.
8. The Tribunal have accordingly considered the evidence obtained at the re-inspection in July and have noted the failure of the Landlord to either allow access to the property or to respond to the report which has been sent.
9. The Tribunal note that the Landlord claimed that all repairs had been carried out. In considering all of the evidence, the Tribunal are unable to conclude that all repairs required in the RSEO have been carried out and accordingly in the circumstances the Tribunal are unable to make a determination that the works are complete and to issue a Certificate of Completion in terms of section 60 of the Act.

Determination

10. The Tribunal having carried out a re-inspection and having noted the failure of the Landlord to reply to correspondence, 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

11. 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 Bauld

28 November 2019

~~James~~ Bauld

Date

Housing and Property Chamber First-tier Tribunal for Scotland



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



Property Ground floor Right, 10 Avenue Street Stewarton KA3 5AP

Ref No: FTS/HPC/RT/17/0131

Surveyor: Donald Wooley MRICS

Previous inspections

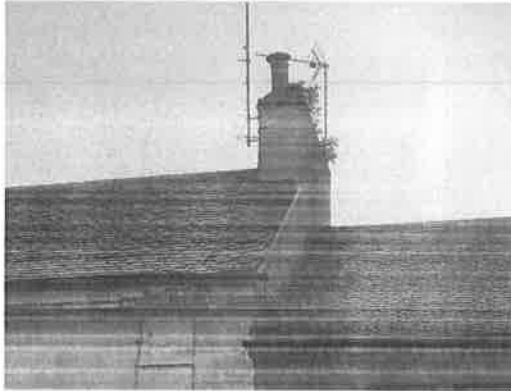
The subject property was originally inspected on 29th June 2017 by the First-tier Tribunal for Scotland. A Repairing Standard Enforcement Order was served on 24th July 2017. On 26th September 2017, the property was re-inspected by Alex Hewton, the Ordinary (surveyor) member of the original Tribunal. A re-inspection report dated 26th September 2017 was prepared which concluded that, with the exception of the installation of interconnected smoke and heat detectors, all of the original works, as stated in the Repairing Standard Enforcement Order (RSEO), remained outstanding.

On 19th January 2018 a Rent Relief Order was served on the landlord reducing the amount of rent payable by 25% of the rent which would, but for the order, be payable.

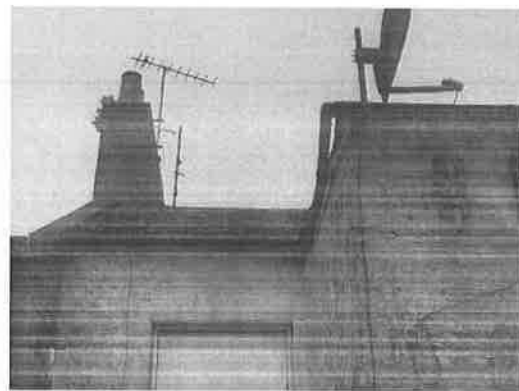
Such a report may be obtained from either a Chartered Building Surveyor, a Registered Architect, or a member of a Registered Roofing Contractors' Association e.g. The National Federation of Roofing Contractors, The Confederation of Roofing Contractors or a similar independent organisation.

Site Observations:

- (a) No EICR was made available to me and I am unaware of any such report having been received by the Tribunal.
- (b) No EPC was made available to me and I am unaware of any such report having been received by the Tribunal.
- (c) It was noted by the original Ordinary (surveyor) member, during the previous re-inspection, that smoke alarms had been installed in the lounge and hall and a heat alarm had been installed in the kitchen. The previous report also noted that they appeared to be interconnected.
- (d) It is unclear if, since the previous inspection, any repairs have been completed to the roof and associated areas. Externally significant vegetation remains at the chimney head areas and there are a number of loose chipped and missing slates as illustrated in photograph numbers 1-4 taken during the re-inspection of the property on **11 July 2019**.



(1) Front Elevation



(2) Rear Elevation

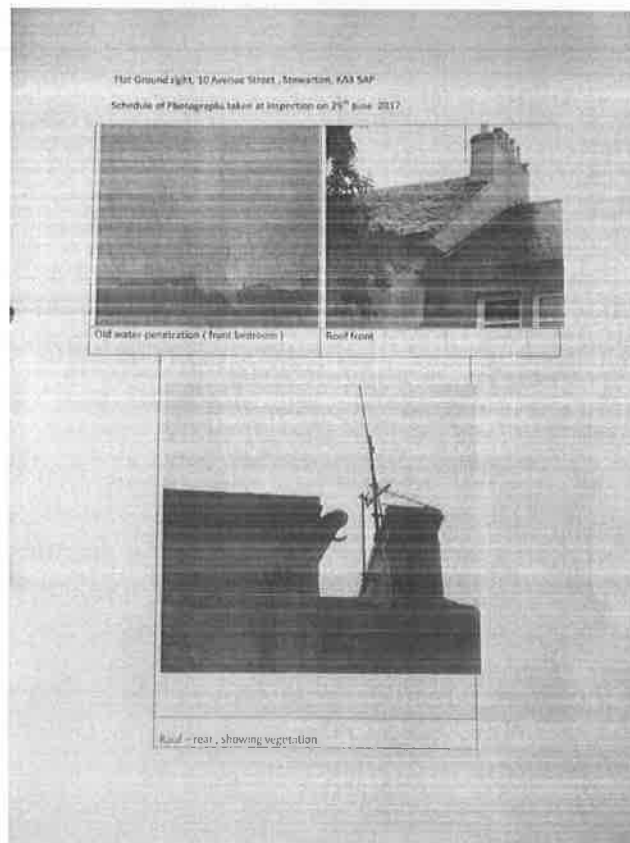
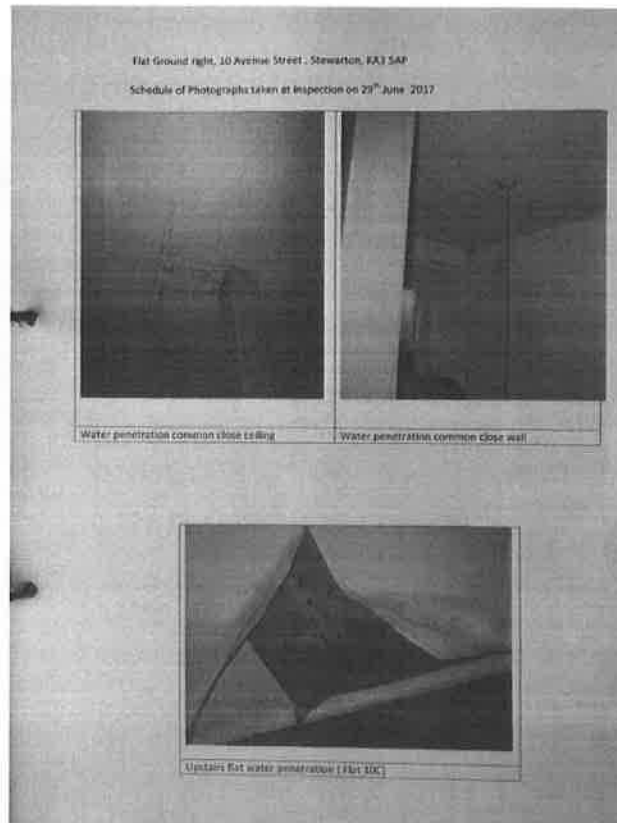


(3) Rear Elevation



(4) Front Elevation.

Photographs dated 29 June 2017



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
11 July 2019