

# Housing and Property Chamber First-tier Tribunal for Scotland

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

**Certificate of Completion of Work: Housing (Scotland) Act 2006 Section 60**

**Chamber Ref: PRHP/EH14/32/13**

**Re: Property at 3/1 Dumbryden Grove, Edinburgh EH14 2QP ("the Property")**

**Sasine Description: All and Whole the subjects known as 3/1 Dumbryden Grove, Edinburgh, being the subjects more particularly described in Feu Disposition in favour of Mary Eileen Telford, recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 27 February 1992. (Search Sheet 224895)**

**The Parties:-**

**Ricardo de Freitas, sometime 3/1 Dumbryden Grove, Edinburgh EH14 2QP ("the Tenant")**

**Barry MacFarlane, 11 Abbey Court, Inverness IV3 8SN ("the Landlord")**

**Tribunal members: George Clark (Legal Member/Chair) and Greig Adams (Ordinary/surveyor Member)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') hereby certifies that the work required by the Repairing Standard Enforcement Order relative to the Property made on 14 June 2013 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.**

## **Right of Appeal**

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.

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 typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, Legal Member/Chair of the tribunal at Lasswade, Midlothian on 1 May 2019 before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

G Clark

\_\_\_\_\_ Legal Member/Chair

V Clark

\_\_\_\_\_ witness

# Housing and Property Chamber First-tier Tribunal for Scotland

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**Statement of decision of the Housing and Property Chamber under  
Section 60 of the Housing (Scotland) Act 2006**

**Chamber Ref: PRHP/EH14/32/13**

**Re: Property at 3/1 Dumbryden Grove, Edinburgh EH14 2QP ("the  
Property")**

**The Parties:-**

**Ricardo de Freitas, sometime 3/1 Dumbryden Grove, Edinburgh EH14  
2QP ("the Tenant")**

**Barry MacFarlane, 11 Abbey Court, Inverness IV3 8SN ("the Landlord")**

**Tribunal members: George Clark (Legal Member/Chair) and Greig  
Adams (Ordinary/surveyor Member)**

**Decision**

**The First-tier Tribunal for Scotland ("the Tribunal"), having made such  
enquiries as it saw fit, determined that the Landlord has complied with  
the Repairing Standard Enforcement Order in respect of the Property  
made on 14 June 2013.**

**Background**

1. On 14 June 2013, the Private Rented Housing Panel (now the First-tier Tribunal for Scotland Housing and Property Chamber) issued a Repairing Standard Enforcement Order ("the Order") in respect of the Property. The Order required the Landlord to:-
  - (a) Replace the central heating boiler using a Gas Safe Registered Engineer and provide a Gas boiler Safety Certificate (CP12);
  - (b) Replace the seals in the windows of the small rear facing bedroom;
  - (c) Repair or replace the oven;
  - (d) Provide the Committee (now Tribunal) with a valid Landlord's Gas Safety Certificate which relates to the Property.
2. The Property was reinspected by the surveyor member of the Committee (now Tribunal) on 24 July 2014, 10 November 2014 and 25 June 2015

and, on 15 September 2015, the Committee determined that the Landlord had not carried out the works required by the Order. The Committee noted that the Tenant had vacated the Property on 11 July 2014. Notice of the failure to comply was given to City of Edinburgh Council in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the 2006 Act").

3. On 26 October 2018, City of Edinburgh Council advised the Tribunal that the Property was currently empty and under renovation. The Council had contacted the landlord, who had confirmed that he had recently been able to renovate the Property and complete the work required by the Order.
4. The Tribunal reinspected the Property on the morning of 31 January 2019. The Landlord was represented at the reinspection by Ms Rhea Balfour. The Tenant, having vacated the Property, was no longer a Party to the proceedings. The Landlord's representative provided the Tribunal at the inspection with a Gas Safety Certificate, dated 12 December 2018, in respect of the Property in which the installation was deemed to be satisfactory.
5. The Tribunal found that all the works required by the Order had been carried out, apart from the requirement to replace the seals in the windows of the small rear-facing bedroom. This was a relatively minor matter and, at the reinspection, the Landlord's representative advised the Tribunal that she would arrange for the work to be carried out and would advise the Tribunal when it was completed.
6. The Tribunal was unable to find that all the work required by the Order had been carried out but decided that it was content to vary the Order to allow a further period of one month for the work to be completed. The Tribunal also decided that it would be sufficient for the Ordinary/surveyor Member to reinspect the Property from the outside, so that access to the Property would not be required.
7. The Ordinary/surveyor Member of the Tribunal reinspected the Property on 25 April 2019 and reported that the perimeter/sealants to the rear elevation had been replaced and were considered to be wind and watertight. A copy of the Reinspection Report is attached to and forms part of this Statement of Decision.
8. The issues to be determined were whether the Landlord had complied with the Repairing Standard Enforcement Order in respect of the Property.

### **Findings of Fact**

9. The Tribunal finds the following facts to be established:-
  - The Landlord has replaced the central heating boiler. This was noted in the Decision of the Committee issued on 15 September 2015.
  - The Landlord has replaced the oven.

- The Landlord has provided the Tribunal with a satisfactory current Gas Safety Certificate in respect of the Property.
- The perimeter seals of the window of the small rear-facing bedroom have been replaced.

**Reasons for Decision**

The Tribunal finds that all the works required by the Order have been carried out.

**Decision**

The Tribunal accordingly determined that the Order should be varied by extending the period within which the work required by the Order must be completed, all in terms of Section 25 of the 2006 Act.

The decision of the Tribunal was unanimous.

**Right of Appeal**

**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.**

**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.**

G Clark

Signed ..... Date 1 May 2019  
Chairperson

*This is the Revised Report referred  
to in the original Statement of Decision*  
G. Clark

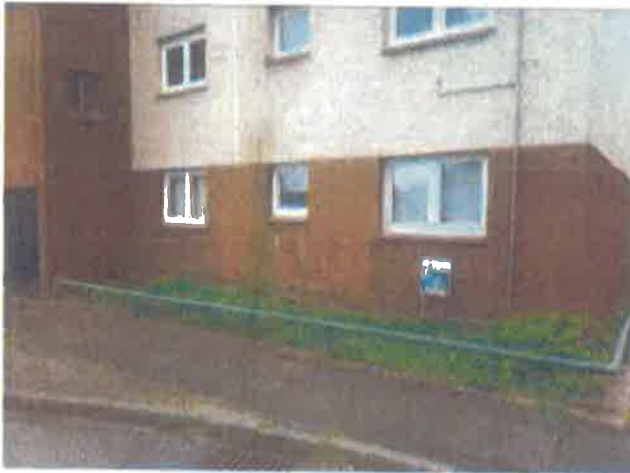
## Housing and Property Chamber First-tier Tribunal for Scotland



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

**Re-Inspection Report**

**Chamber Ref: PRHP/EH14/32/13**



**Property at 3/1 Dumbyden Grove, Edinburgh EH14 2QP ("the Property")**

**Sasine Description:** All and Whole the subjects known as 3/1 Dumbyden Grove, Edinburgh, being the subjects more particularly described in Feu Disposition in favour of Mary Eileen Telford, recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 27 February 1992. (Search Sheet 224895)

### **THE PARTIES:**

Ricardo de Freitas, sometime 3/1 Dumbyden Grove, Edinburgh EH14 2QP ("the Tenant")

Barry MacFarlane, 11 Abbey Court, Inverness IV3 8SN ("the Landlord")

### **THE TRIBUNAL:**

Tribunal members: George Clark (Legal Member/Chair) and Greig Adams (Ordinary/surveyor Member)

### **Background:**

On 14 June 2013, the Private Rented Housing Panel (now the First-tier Tribunal for Scotland Housing and Property Chamber) issued a Repairing Standard



Enforcement Order ("the Order") in respect of the Property. The Order required the Landlord to:-

- (a) Replace the central heating boiler using a Gas Safe Registered Engineer and provide a Gas boiler Safety Certificate (CP12);
- (b) Replace the seals in the windows of the small rear facing bedroom;
- (c) Repair or replace the oven;
- (d) Provide the Committee (now Tribunal) with a valid Landlord's Gas Safety Certificate which relates to the Property.

The Property was reinspected by the surveyor member of the Committee (now Tribunal) on 24 July 2014, 10 November 2014 and 25 June 2015 and, on 15 September 2015, the Committee determined that the Landlord had not carried out the works required by the Order. The Committee noted that the Tenant had vacated the Property on 11 July 2014. Notice of the failure to comply was given to City of Edinburgh Council in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the 2006 Act").

On 26 October 2018, City of Edinburgh Council advised the Tribunal that the Property was currently empty and under renovation. The Council had contacted the landlord, who had confirmed that he had recently been able to renovate the Property and complete the work required by the Order.

The Tribunal reinspected the Property on the morning of 31 January 2019. The Landlord was represented at the reinspection by Ms Rhea Balfour. The Tenant, having vacated the Property, was no longer a Party to the proceedings. The reinspection found that the only outstanding item relating to the RSEO related to the window perimeter sealant which when viewed from the outside were cracked.

A Variation to the RSEO was issued on 21 February 2019 providing a one-month extension to facilitate the completion of the last outstanding item.

**Access:**

The re-inspection was undertaken on 25 April 2019 by Mr Adams, Ordinary Member of the Tribunal. The inspection extended to an inspection of the outstanding item detailed within the RSEO. No further parties were present at the reinspection.

**Purpose of Re-inspection:**

The purpose of the re-inspection was to investigate whether the outstanding work required under the Repairing Standard Enforcement Order has been completed. The single item outstanding from the RSEO was as follows:

- Replace the seals in the windows of the small rear facing bedroom;

**The re-inspection dated 25 April 2019 found;**

- The perimeter sealants to the rear elevation had been replaced and were considered to be wind and watertight.



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.

G Adams

Greig Adams BSc (Hons) FRICS C. Build E FCABE LETAPAEWE  
Surveyor Member  
**First-tier Tribunal for Scotland (Housing and Property Chamber)**





Appendix A – Photographic Record



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