

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: FTS/HPC/RP/17/0095

Re: Property at Keeper's Cottage, Borthwickbrae. Hawick, Scottish Borders TD9 7NA ("the Property")

Title No: ROX12810 (part)

The Parties:-

Mr Max Arthur and Mrs Debi Arthur, both residing at Keeper's Cottage, Borthwickbrae, Hawick, Scottish Borders TD9 7NA ("the Tenant")

Mr Richard White and Ms Katherine Clark, both residing at Borthwickbrae House, Borthwickbrae, Hawick, Scottish Borders TD9 7NA (represented by Mr Guy Sampson of Savills, 18-20 Glendale Road, Wooler, Northumberland NE71 6DW) ("the Landlord")

Tribunal Members: George Clark (Legal Member/Chairman) and Andrew Taylor (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 9 May 2017 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.

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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 21 December 2018 before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

G Clark

Legal Member/Chair

Valerie Clark
witness

Witnessed 21 December 2018

At G Clark

GEORGE BRUCE CLARK, Notary Public

Housing and Property Chamber

First-tier Tribunal for Scotland



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G Clark

Legal Member/Chair

Valerie Clark

witness

Issued 21 Dec 2018
Certified true copy
G Clark

Notary Public

Housing and Property Chamber

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G Clark

____ Legal Member/Chair

Valerie Clark

witness

Loosened 21 December 2018

Called 2 Jan 2017

G Clark

Notary Public

Housing and Property Chamber

First-tier Tribunal for Scotland



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Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier tribunal for Scotland under Section 60 of the Housing (Scotland) Act 2006

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**Tribunal Members: George Clark (Legal Member/Chairman) and Andrew
Taylor (Ordinary/Surveyor Member)**

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
('the Tribunal'), having made such enquiries as it saw fit for the
purposes of determining whether the Landlord had carried out the work
required by the Repairing Standard Enforcement Order in respect of the
Property, made on 9 May 2017, and having heard from both the Tenant
and the Landlord at a hearing on 21 December 2018, determined that the
work had been carried out and that a Certificate of Completion to that
effect should be issued in terms of Section 60 of the Housing (Scotland)
act 2016**

Background

- 1. On 9 May 2017, the Tribunal made a Repairing Standard Enforcement
Order in respect of the Property, having determined that the Landlord had**

failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").

2. The Order required the Landlord to:

(1) Instruct an RICS registered and qualified building surveyor to carry out a survey and report on the condition of the following: -

- Slate roof covering, chimneys, associated flashings, eaves, soffits, sarking, roof timbers, rainwater goods including downpipes and connections to underground drainage.
- External walls and render.
- Penetrating damp to external walls throughout the property with particular reference to the living room, dining room and kitchen.
- Rising damp throughout the property with particular reference to the living room timber floor and associated joists

The Landlord must then carry out and complete any and all repairs to the property identified and recommended by the said report and provide a copy of the said report to the Tribunal.

(2) Engage a suitably qualified drainage professional to examine, test and report on the condition and operation of the external drainage installation and septic tank, to provide a copy of the said report to the Tribunal, and to carry out any recommendations highlighted in that report and leave the complete soil and rainwater system in proper working order.

(3) Provide a supply of water to the property which is of sufficient quality and quantity for domestic use and compliant with the Private Water Supplies (Scotland) Regulations 2006, to include connections to the tenant's existing filtration system: on completion of the works obtain a report by a suitably qualified, independent person as to the sufficiency of the quality and quantity of the water supply for domestic use to the property; and provide a copy of the said report to the Tribunal.

(4) Repair or replace all sash and case and casement windows to the property to render them wind and watertight, secure, in proper working order and capable of opening for proper ventilation.

(5) Carry out such works as are required to make safe the dangerous masonry boundary walls adjacent to the byre and

(6) Carry out all making good and decoration associated with the completion of the foregoing works.

The Tribunal ordered that the reports specified in the Order must be obtained within the period of 2 months from the date of service of the Order and all remedial works carried out and completed within the period of six months thereafter

3. The Ordinary/Surveyor Member of the Tribunal reinspected the Property on 9 March 2018. He reported that a Specific Detail Report by Jonathan Watson of Savills, dated 31 July 2017 had contained recommendations to address the defects in the Property. These had been largely addressed, including re-covering of major sections of the roof including associated flashings and partial roof repairs elsewhere; repairs to chimney stacks, including the repositioning of the incoming electricity supply; renewal of rainwater goods, repairs at eaves soffit boards; improved drainage to the perimeter of the Property, with an additional downpipe; removal of rendering to the northeast elevation; partial dry lining of the northeast wall internally; a new concrete floor to the living room, the solid fuel heater having been removed to accommodate this work; and mechanical ventilation to the kitchen area.
4. A report on the drainage system had been provided and recommendations within that report had been addressed, including the realignment of drain legs, rodding pipework and extending the outfall from the septic tank.
5. Extensive work had been carried out on the water supply installation, including work at the remote cistern and replacement of pipes. A satisfactory water quality test had been provided.
6. With the exception of the larder, all the windows had been satisfactorily replaced.
7. The unsafe masonry walls at the byre area had been demolished.
8. A certain amount of making good work and decoration had been undertaken.
9. The Ordinary/Surveyor Member of the Tribunal then noted the works required by the Order which remained outstanding.
 - a. In the Specific Defect Report, woodworm had been identified within the roofspace timbers, but the recommended spray treatment had not been carried out.

- b. The Landlord would have to provide a source of heating within the living room area. If it was proposed to use an open fire, the Tribunal would require a report by a competent tradesman detailing the effectiveness and safety of the flue system and provide suitable carbon monoxide detection.
 - c. In the course of the rewiring works, damage had been caused to the Tenant's Rangemaster cooker, including a control knob and a chrome handle. These would have to be repaired.
 - d. Some making good works had been carried out, but several areas were still affected by previous water damage or the consequences of the remedial works and making good with associated decoration was required in the following areas:
 - i. The ceiling of the corridor to the bedroom/bathroom was extensively damaged and there was boss plaster to the walls.
 - ii. In the living room there was damage to skirting and facings and redundant sockets and trunking had to be removed.
 - iii. Reinstatement of the timber dado lining on the northeast wall of the dining room.
 - iv. There was water and mould damaged plaster to the walls and ceiling of the kitchen/pantry and making good decoration and tiling was required.
 - v. The walls and ceiling of the porch at the front door required to be plastered.
 - vi. There were gaps/holes in the stonework and pointing where render had been removed on the northeast elevation.
 - vii. There were gaps/holes in the soffit boarding adjacent to the areas of repair.
 - viii. It was not possible to inspect any making good requirements resulting from the drainage and demolition works, as the ground was covered in snow at the date of the reinspection, but there might be requirements in that area.
10. The Tribunal inspected the Property on the morning of 17 July 2018 and thereafter held a hearing at Heart of Hawick Tower Mill, Kirkstyle, Hawick, Scottish Borders TD9 0AE.
11. Following the reinspection and hearing, the Tribunal determined to extend, to a date falling 6 weeks after the date of notification to the Parties of its Decision, the period within which the Landlord must carry out the work required by the Repairing Standard Enforcement Order in respect of the Property, made on 9 May 2017.
12. The Ordinary/Surveyor Member of the Tribunal reinspected the Property on 8 October 2018. He reported that a new cowl had been fitted to the living room chimney, as recommended by the Landlord's solid fuel contractor, that the damage caused to the Rangemaster cooker had been

repaired, that plaster repairs to walls and ceilings had been carried out to the corridor, that skirtings in the living room had been made good and the redundant trunking removed, that the timber dado lining in the dining room had been reinstated, that replastering had been carried out to previously water/mould damaged plaster in the kitchen and pantry, that porch walls and ceilings had been repaired, that gaps and holes in the pointing to the northeast elevation had been made good and that, with one exception, the gaps in the timber soffit had been repaired.

13. The view of the Ordinary/Surveyor Member of the Tribunal was that there were 5 outstanding matters:
 - a. the Specific Defect Report carried out by the Landlord's agents had identified woodworm within the roofspace timbers, but the recommended spray treatment had not been carried out.
 - b. Decoration was required to those areas affected by the works and that should be preceded by appropriate snagging, filling and preparation.
 - c. Written confirmation was required from the solid fuel contractor that, following the fitting of the cowl, the open fireplace and flue had been tested and found safe and fit to use. Additionally, the Landlord should ensure there was a working carbon monoxide alarm within the room.
 - d. The hole in the timber soffit should be repaired.
 - e. Disposal of the builders' debris arising from the works.
14. The reinspection report was sent to the Parties and, in the light of further written representations, the Tribunal decided to proceed to a further reinspection and a hearing.
15. Tribunal reinspected the Property on the morning of 21 December 2018. The Tenant and the Landlord's representative were present. A file of photographs, taken at the reinspection, is attached to and forms part of this Statement of Decision.
16. Following the reinspection, the Tribunal held a hearing, again at Heart of Hawick Tower Mill. The Tenant, Mr Max Arthur, and the Landlord's representative, Mr Guy Sampson, of Savills, attended the hearing.

The Hearing

17. The discussion centred mainly on the woodworm treatment within the roofspace. The Tenant pointed out that there is a partition in the roofspace which divides it into two sections and it would be possible to carry out the

work in two phases, with the Tenant's belongings being moved initially to the second area to be treated then back to the treated first area, but this would involve a great deal of work and the Tenant would require a reasonable lead-in time and a definite start date. Mr Sampson stated that his clients would not wish to be dogmatic about insisting on a "one-hit" approach to the work, which would involve completely emptying the attic. He pointed out, however, that the woodworm was fairly incidental to the Order as little harm would be done if it was left until further insulation work was being done in the attic. The Tenant also pointed out that woodworm treatment had not been part of the original complaint, so he was not pressing for it.

18. The Tenant accepted that quite a lot of decoration had been done since the last inspection and that a carbon monoxide detector had been fitted in the living room. He told the Tribunal that the stove had an internal flue. He also reminded the Tribunal that deadlines for carrying out work had been continually missed.
19. The Parties then left the hearing and the Tribunal members considered all the written representations and documentation before them, together with the evidence led at the Hearing.

Summary of the issues

20. The issue to be determined was whether the Landlord had carried out the work required by the Order and whether a Certificate of Completion to that effect should be issued.

Findings of fact

21. The Tribunal finds the following facts to be established:-

- the decoration work has been carried out.
- the Tenant has installed a stove at the Tenant's expense.
- a carbon monoxide detector has been fitted in the living room.
- the hole in the timber soffit has been repaired.
- the work has been completed to a satisfactory standard.
- the woodworm treatment within the roofspace timbers has not been carried out.
- the builders' debris outside the Property has not been removed.

Reasons for the decision

22. The Tribunal noted that, at the reinspection, the Tenant had pointed out some slipped and missing roof tiles, a build-up of silt at the external

drainage channel at the northwest corner of the building and some boss plaster in the corridor. The Tribunal regarded these as matters of ongoing maintenance. The drainage channel was dry at the time of the reinspection and, while there were some areas of boss plaster, there were no signs that it was in danger of falling off. The plaster was in a reasonable condition, given the age of the Property and the lath and plaster arrangement. It would always be open to the Tenant to bring a fresh application to the Tribunal if maintenance works were not being carried out.

23. The Tribunal also noted that the woodworm treatment had not formed part of the original application and, as the Parties appeared to be content to leave matters until insulation work was being carried out, the Tribunal was prepared to remove it from the list of outstanding items, although the Tribunal observed that it was something that should not go on for a prolonged period without being checked.
24. The Tribunal determined that, as the Tenant had installed a stove to replace the open fire, there was no further action that could be required of the Landlord.
25. The Tribunal held that, as the builders' debris was located outwith the curtilage of the let Property, it could not require the Landlord to remove it.

Decision

26. The Tribunal determined that the work required by the Repairing Standard Enforcement Order made on 9 May 2017 had been carried out to its satisfaction and that, as the issues regarding woodworm treatment, the open fire in the living room and the removal of builders' debris were either no longer relevant or were not being insisted upon by the Tribunal, a Certificate of Completion of Works should be issued.
27. The decision of the Tribunal was unanimous.

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G Clark

Signed Date: 21 December 2018
Legal Member/Chairperson

21 December 2018
This is the free photograph
referred to in the finding
G Clark

Housing and Property Chamber
First-tier Tribunal for Scotland



Keepers Cottage, Borthwickbrae, Hawick TD9 7NA

FTS/HPC/RP/17/0095

Schedule of Photographs - Inspection Date – 21st December 2018

Weather – Dry, misty and overcast



1. The property



2. New wood burning stove to
living room – fitted by tenant



3. Decoration to rear corridor



4. Skirting made good living room



5. New plaster painted within larder



6. New plaster painted at kitchen



7. Plaster and decoration at porch



8. Kitchen units replaced by tenant



9. Roof showing slipped slates. Gutters realigned.



10. Repair to hole in eaves soffit



11. Roof showing slipped slate



12. Manhole and surrounding area



13. Area where dangerous wall was removed



14. Builders debris spoil heap outwith boundary



15. Drainage ditch at NW gable