

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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### **DETERMINATION BY FIRST-TIER TRIBUNAL FOR SCOTLAND (HOUSING AND PROPERTY CHAMBER)**

**Statement relative to the Certificate of Completion of work issued by the First-tier tribunal for Scotland (Housing and Property Chamber) under section 60 of the Housing (Scotland) Act 2006**

**Chamber Reference: FTS/HPC/RT/22/0851**

**Title Number: Subjects registered in the Land Register of Scotland under Title Number ABN56737**

#### **The Parties**

**Aberdeenshire Council, Infrastructure Services (Housing), Gordon House, Blackhall Road, Inverurie, Aberdeenshire, AB51 3WA (“the Third Party Applicant”)**

**Mr Naeem Tariq, 3 Cullion Way, Motherwell, North Lanarkshire, ML1 5SF (“The Landlord”)**

**Subjects: 23 Provost Davidson Drive, Ellon, Aberdeenshire, AB41 9BQ (“the Property”)**

#### **Tribunal Members**

**Ms H Forbes (Legal Member)**

**Mr M Andrew (Ordinary Member)**

#### **Background**

1. Further to a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dated 22<sup>nd</sup> June 2022, the Landlord was required to comply with the RSEO relative to the Property and dated 22<sup>nd</sup> July 2022. The RSEO required the Landlord to:
  1. Repair or replace all external windows and doors, including the patio doors, to ensure they are wind and watertight, and capable of opening and closing, latching and locking, in the correct manner.

2. Repair or replace the door latch and furniture to the inner door between the front porch and the sitting room, to ensure it latches and is in proper working order.
3. Install a functioning downpipe to the rear elevation of the Property.
4. Inspect and ensure the proper working of the guttering to the front elevation of the Property.
5. Ensure the guttering is cleaned and in proper working order.
6. Repair or replace the soffits, ensuring they are adequately painted and in proper working order.
7. Install a proper surface on the top of the back door steps to ensure they are level and in proper working order to provide safe passage to the garden area.
8. Remove the waste material from the sub-floor of the kitchen.
9. Repair or replace the pipework from the kitchen appliances to the drainage system and ensure all waste water outfalls to the public foul drain.
10. Ensure the solum has dried out fully.
11. Repair the hole in the kitchen floor.
12. Replace the kitchen flooring and floor covering.
13. Repair or replace the kitchen units to ensure they are in proper working order.
14. Replace the kick plate beneath the sink unit and dishwasher.
15. Repair or replace the shelf under the kitchen sink.
16. Replace the cistern lid in the bathroom and ensure the cistern is in proper working order.
17. Investigate and repair any leak at the base of the toilet pan, ensuring the bathroom floor is stable, and any damaged area of floor is replaced.
18. Replace the bathroom floor covering.
19. Repair or replace the showerhead bracket.
20. Repair or replace the bathroom lock to ensure the lock functions in a proper manner.

21. Repair or replace the cold water tap on the bath to ensure it is in proper working order.
22. Decorate the living room ceiling.
23. Replace the garage door.
24. Reinstate the garage tap to ensure it is in proper working order.
25. Provide a current updated Electrical Installation Condition Report.

The Tribunal ordered that the works specified in the RSEO must be carried out within 6 weeks from the date of service of the RSEO, which was issued on 27<sup>th</sup> June 2022.

2. On 24<sup>th</sup> August 2022, parties were notified of an inspection set down for 13<sup>th</sup> October 2022.
3. By email dated 10<sup>th</sup> October 2022, the Landlord's representative stated the following:

*We refer to the above and note that you are intending to inspect the property as at the 13th October 2022. We would be obliged if you would note that Mr Tariq suffered a stroke at the end of June and was incapacitated for some time. Accordingly there was a delay in instructing the work. A full refurbishment of the property is now in progress but will not be completed for a further eight weeks.*

*We are therefore seeking that the inspection be postponed to a further date after that time.*

*We would also be obliged if you would note that the tenant of the property has actually left the property as at the end of August.*

4. The Tribunal decided to postpone the re-inspection.
5. On 16<sup>th</sup> November 2022, parties were notified that a re-inspection had been scheduled for 10<sup>th</sup> January 2023.
6. On 9<sup>th</sup> January 2023, Housing and Property Chamber staff contacted the Landlord's representative to ensure that access would be made available for the re-inspection the following day. On the same day, the Landlord's representative replied as follows:

*We have today been informed that access to the inside of the property is not currently possible as the builder has the only set of keys. The builder is not contactable at present. The internal refurbishments have not yet been completed and we understand it will not be finished for a further month.*

7. The Tribunal decided to postpone the re-inspection.
8. On 12<sup>th</sup> January 2023, the Tribunal issued a Direction requiring a response within 7 days of issue, in the following terms:

The Landlord is required to:

- (i) Provide a reason for the delay in informing the Tribunal that access would not be available to the Property for re-inspection on 10<sup>th</sup> January 2023, and that works had not been completed.
- (ii) Provide an update to the Tribunal in regard to progress made in addressing the repairing issues as set out in the Tribunal's Repairing Standard Enforcement Order ("RSEO") dated 22<sup>nd</sup> July 2022. This should set out in full what work has been completed, what work is still to be completed, and estimated timescales for completion of said work.
- (iii) Provide written representations to the Tribunal setting out his proposals as to how the case should now proceed, given that he has failed to comply with the RSEO.

#### **Reason for the Direction**

The Landlord has failed to comply with the RSEO, and insufficient detail has been given to the Tribunal as to the reasons for the failure.

The Landlord has shown a complete lack of disrespect in his dealings with the Tribunal throughout this case, which suggests a failure to take the matter seriously.

Two inspections have now had to be cancelled, both at short notice, due to the Landlord's failure to correspond with the Tribunal and make proper application for adjournment in terms of the Procedural Rules.

In all the circumstances, the Tribunal is considering whether to schedule any further procedure, or to report the matter to the Procurator Fiscal in order that criminal proceedings in respect of non-compliance can be taken forward.

**If the Landlord does not provide a satisfactory response to the Direction, it is likely that a negative inference will be drawn from the lack of response, and a decision on compliance may be made without any further procedure.**

9. By email dated 19<sup>th</sup> January 2023, the Landlord's representative responded as follows:

*The owner of this property is Mr Naeem Tariq who resides at 3 Cullion Way, Newarthill. He has owned this property since 2002. HE*

*purchased the property because he was at that time working on a regular basis in the Aberdeen area and formed a relationship with the Applicant. When the relationship ended the applicant continued to stay in that property. Mr Tariq had an interest only mortgage which expired in February 2022 when he was asked to repay the capital. It was at that time he sought recovery of the property in order to sell same. Mr Tariq suffered a stroke at the end of June 2022 and a further stroke at the end of September 2022. He is incapable of work or of dealing with this matter himself and requires the assistance of his daughter who is also in employment and has children to care for. The family had instructed a Romanian builder to carry out all of the work. He commenced the work in September of this year and had changed the locks when the tenant vacated the property. He is the only person with a key. He did not advise our clients family that he was going home for a holiday. They understand that the work is almost complete but have not inspected this. They understand that the builder is to return next week.*

*We refer to your letter of 12th January 2022 and respond as follows :*

*I. The reason for the delay in advising of no access was that our clients were not aware that the builder had left the country during the holiday period. Our clients do not have a key to the property, the builder being the only person who has such a key. Our clients have not visited the premises.*

*II. Our clients cannot provide this detail. They have been advised by the builder that the work is almost complete but they do not know the exact details.*

*III. Our clients would wish this case continued for a period of 6-8 weeks in order that the work is completed, checked and inspected.*

- 10.** The Tribunal decided to allow a variation to the RSEO to enable all works to be carried out within six weeks of the date of issue of the varied RSEO, which was 30<sup>th</sup> January 2023.
- 11.** By email dated 13<sup>th</sup> February, the Landlord's representative informed the Tribunal that the works required by the RSEO had been completed.
- 12.** A re-inspection of the Property took place on 11<sup>th</sup> May 2023. The Tribunal found that all items with the exception of items 23, 24 and 25 had been completed. The Tribunal decided to allow the Landlord an opportunity to deal with the outstanding items and provide evidence of the same, such as photographs and invoices.
- 13.** By email dated 16<sup>th</sup> May 2023, the Third Party Applicant lodged a copy of the current EICR.

- 14.** By email dated 31<sup>st</sup> May 2023, the Landlord's representative lodged the Competency Self-Assessment form and City and Guilds certificate for the electrician who had carried out the EICR.
- 15.** By email dated 27<sup>th</sup> June 2023, the Landlord lodged photographs to show that the remaining works required by the RSEO had been carried out.

### **Decision**

- 16.** The Tribunal considered whether or not it was appropriate to find that the works required by the RSEO had been completed and whether the appropriate Certificate of Completion in terms of section 60 of the 2006 Act should be issued. The Tribunal agreed that the works required by the RSEO had been carried out.
- 17.** In all the circumstances, the Tribunal agreed that the appropriate Certificate should be issued. The decision was unanimous.

### **Right of Appeal**

**A landlord, tenant or third party Tenant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

#### **Effect of section 62 of the 2006 Act**

**Where such an appeal is made, the effect of the decision and 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.**

H Forbes

Chairperson

First Tier Tribunal for Scotland (Housing and Property Chamber)

Date: 5<sup>th</sup> July 2023