

# Housing and Property Chamber First-tier Tribunal for Scotland



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

**Statement of decision for the First-tier Tribunal for Scotland (Housing and Property Chamber)  
under Section 25 of the Housing (Scotland) Act 2006**

**Chamber Reference: FTS/HPC/RP/16/0283**

**Title Number: STG1638**

**Property Address: 3A Irvine Place, Stirling, FK8 1BZ (the “house”)**

**The Parties:- Jonathan Preston, 3A Irvine Place, Stirling, FK8 1BZ represented by  
Robert Melvin, Shelter Scotland, Customer First, 1-5 Port Street,  
Stirling, FK2 2EJ**

**Eleanor Campbell, 36 Chalton Road, Bridge of Allan.**

**Claire Campbell, 3 South Road, Impington, Cambridge**

**Victoria Campbell, 258 Rutland Road, West Bridgeford, Nottingham  
 (“the landlords”)**

The first-tier Tribunal for Scotland (Housing and Property Chamber “the Tribunal”

The Tribunal, having made such enquiries as is fit for the purpose of determining whether the landlords have complied with the Repairing Standard and Enforcement Order (RSEO) in relation to the property determined that the landlords should be given an extension of eight weeks for the period allowed for the completion of the works required all in terms of Section 25(1) of the Housing (Scotland) Act 2006 (“the Act”).

## Background

1. Reference is made to the determination of the Tribunal dated 3 January 2017 and determined that the landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that they had failed to ensure that the property met the repairing standard. The works required by the RSEO were:
  - (a) To carry out such works as is identified as “Potentially dangerous (C2) within the Electrical Installation Certificate and thereafter to provide a new Electrical Installation Certificate showing that such works have been undertaken.
  - (b) To replace the window sills to the rear external wall of the property to ensure that the house is wind and watertight.
  - (c) To clean and point the rear external wall of the property to ensure that the property is wind and watertight.

- (d) To remove/clear growing vegetation to the rear external wall and flank of the building to assist in the prevention of damp.
- (e) To investigate the external chimney to the side flank wall to identify such works as may be necessary to prevent damp.

The RSEO gave the landlord a period of three months to carry out the work.

That order was subsequently varied and on 14 July 2017 the landlords were provided with a further period of two months to complete said works.

2. On 3 November 2017 the ordinary (surveyor) member of the Tribunal Geraldine Woolley re-inspected the property on behalf of the Tribunal. The tenant was in attendance. The landlords were neither present nor represented.
3. The ordinary (surveyor) member noted that the only works outstanding in respect of the property to be completed were the following:-
  - (i) To investigate the external chimney to the side flank wall to identify such works as may be necessary to prevent damp.
  - (ii) The ordinary (surveyor) member noted that a damp proof course had been installed along the side wall of the property.
  - (iii) Internally the plaster in the bedroom wall had been stripped back, damp proof membrane installed and the wall re-plastered. Decoration has not been made good as yet.
  - (iv) Damp meter readings at approximately 500 mm from the floor have produced reduced damp recordings (now 14.8) however just above the skirting board the readings remain high namely at 33.6. Considering that the wall was re-plastered in September the readings indicate that the plaster is still drying out and that as the readings approximately 500 mm above the floor have reduced it is probable that the work has addressed the damp proof effectively. However until readings at all points in the wall are reduced to an acceptable level it is not possible to determine that the problem has been resolved and a further ingress of damp prevented.
4. The Tribunal concluded that at this stage it was not possible to determine whether the problem has resolved and that the issue of damp had been prevented. In the circumstances the Tribunal determined to continue the matter for a further period of two months to allow for any further works to be completed and such that a further re-inspection could then take place.

### Decision

The Tribunal considered the substantial works had been done in compliance with the RSEO and as at the inspection on 3 November 2017 the only outstanding issue remained namely the damp within the bedroom. The Tribunal could not be satisfied at this time that the problem

had been resolved. The Tribunal was of the view that a further period of eight weeks would be required and that a further re-inspection should thereafter take place.

### Right of Appeal

**A landlord, tenant or third party applicant 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 type written on this and the two preceding pages are executed by Mark Thorley, chairperson of the ~~tribunal~~ at Edinburgh on 9 February 2018 before this witness:-  
M Thorley

— A Gibson \_\_\_\_\_ witness \_\_\_\_\_ chairperson

ALISON GIBSON name in full

51 South Bridge Address

Edinburgh EH1 1LL

# Housing and Property Chamber First-tier Tribunal for Scotland



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

Variation of RSEO: Housing (Scotland) Act 2006 Section 25

Chamber Ref: FTS/HPC/RP/16/0283

Title no/Sasines Description: STG16382

Property Address: 3A Irvine Place, Stirling, FK8 1BZ (the “the property”)

The Parties:- Jonathan Preston, 3A Irvine Place, Stirling, FK8 1BZ  
represented by Robert Melvin, Shelter Scotland, Customer  
First, 1-5 Port Street, Stirling, FK2 2EJ

Eleanor Campbell, 36 Chalton Road, Bridge of Allan.

Claire Campbell, 3 South Road, Impington, Cambridge

Victoria Campbell, 258 Rutland Road, West Bridgeford,  
Nottingham (“the landlords”)

The First-tier tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) having determined on 7 February 2018 that the **Repairing Standard Enforcement Order** relative to the house served on 12 January 2017 should be varied, the said **Repairing Standard Enforcement Order** is hereby varied with effect from the date of service of this Notice in the following respects:-

1. The period allowed for the completion of the work required by the order is extended for a period of eight weeks.
2. The steps which the tribunal require the landlord to take in complying with the order are amended as follows :-

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

**A landlord, tenant or third party applicant 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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M Thorley

A Gibson

\_\_ witness

\_\_ chairperson

ALISON GIBSON name in full

51 South Bridge Address

Edinburgh EH1 1LL

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### 1) DPC installed in flank wall

1a) As at reinspection 21/04/17 – close up of pointing within external chimney breast



1b) As at 3/11/17 – line of fresh mortar indicates injection sites for new DPC, extending all along the flank wall, including the external chimney breast.

### 2) Damp in flank wall – internal evidence at previous inspections



2a) As at 9/12/16 – damp metre reading 16



2b) As at reinspection 21/04/17 – damp meter reading at 20.7 behind bed approx. 500mm above floor

2) Damp in flank wall – internal evidence at reinspection 3/11/17



2c) At position of previous readings – reduced to 14.8 approx. 500mm above floor



2) Damp in flank wall – internal evidence at reinspection 3/11/17



2d) Higher readings closer to skirting board – 33 in right hand corner, dropping to 29 in left hand corner.

