

Housing and Property Chamber
First-tier Tribunal for Scotland



DETERMINATION by the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 60 of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/RT/16/0183

Re: Property at The Annexe, Drumlovat, Longside, AB42 4YE (“the Property”)

Title No: ABN81383

The Parties:-

ABERDEENSHIRE COUNCIL, Gordon House, Blackhall Road, Inverurie, AB51 3WQ (“the Third Party Applicant”)

MRS SUSAN PATERSON, formerly residing at The Annexe, Drumlovat, Longside, AB42 4YE (“the Tenant”)

MR LEON MARK BINGHAM and MRS ZENA BINGHAM, 51 Aldene Road, Sheffield, S6 4BR (“the Landlords”)

Tribunal Members:-

Gillian Buchanan, Legal Member

Mark Andrew, Ordinary Member

Background

1. On 2 August 2016, the Private Rented Housing Committee (“the Committee”) issued a Determination which decided that the Landlords had failed to comply with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 (“the 2006 Act”). On the same date, the Committee issued a Repairing Standard Enforcement Order (“RSEO”) in respect of the House.
2. In the RSEO the Committee ordered that the works specified be carried out and completed within a period of 8 weeks.
3. On 29 November 2016 the Committee issued a determination that that the Landlords had failed to comply with the RSEO in terms of section 26(1) of the 2006 Act and served notice of the Landlords failure to comply on Aberdeenshire Council in terms of section 26(2) of the 2006 Act. The Committee also determined that the Landlords failure

to comply should be reported to the Police for consideration of prosecution in terms of section 28(1) of the 2006 Act.

4. On 26 September 2019 the Tribunal received an email from the Landlords indicating that all the works required in terms of the RSEO were now complete.
5. On 13 December 2019 the Ordinary (Surveyor) Member of the Tribunal, Mr Mark Andrew, carried out an inspection of the Property. He obtained access from a representative of Aberdeen Considine, an agent of the Landlords who held a key for the Property.
6. By email dated 26 December 2019 the Landlords stated that the electricity serving the Property is on a Smart meter which had been topped up on the day prior to the Re-inspection. They provided to the Tribunal a copy of an email from British Gas dated 12 December 2019 showing a payment of £50 to "Peterhead, AB42 4YE".
7. The Ordinary Member of the Tribunal prepared a Re-inspection Report, a copy of which is attached to this Decision.
8. A copy of the Re-inspection Report was sent to the Landlords for their comment on 8 January 2020. By email dated 21 January 2020 the Landlords made representations relative to the Property and an adjacent property. The representations relative to the Property were as follows:-

*"Regarding the central heating system and hot water system in the annexe . It is all fully working (I am actually a fully qualified heating engineer myself and have filled and tested everything. (Lmbplumbing and heating gas safe registration 191251)
The only reason both systems in the two properties weren't working was that they had ran out of oil.*

I didn't notice the tiny crack in the harling on the conservatory wall , I cleared out the gutters and believed that was the problem. There is no mold or damp in the conservatory now.

The padlocks are still on the doors out from the conservatory. I did get a locksmith out but he didn't seem to know where to get the new mechanism from , I will replace the doors in due course . But they are secure and only open from the inside if required.....

All electrical work , heat sensors alarms , carbon monoxide alarms , plumbing repairs , central heating systems and electrical reports have all been done.

The annexe electrical supply is on a smart meter and I paid credit on it before your visit . I did send proof in a previous email. I don't have a smart meter at home so can't be sure how they work but the supplier emailed me back to say it was on.

Apologies if it wasn't on"

9. The Tribunal carefully considered the Re-inspection Report and the Landlords' representations. The Tribunal concluded that all the works required in terms of the RSEO have not been carried out. Accordingly the Tribunal determined that the works are not complete and on that basis a Certificate of Completion could not be issued in terms of Section 60 of the Housing (Scotland) Act 2006.

Determination

10. The/

The Tribunal having carried out a re-inspection and considered the Landlords' response thereto considered that all works required in terms of the RSEO have not been carried out and is unable to certify that the work has been done. Accordingly the Tribunal determined to refuse a Certificate of Completion in respect of the Property.

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.

Gillian Buchanan

Signed

Legal Member

Date 4/3/2020