

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/16/0185

Re: Property at Drumlovat, Longside, AB42 4YE ("the Property")

Title No: ABN81383

The Parties:-

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

MS GRAINNE CURTIS residing at 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. The Ordinary Member of the Tribunal prepared a Re-inspection Report, a copy of which is attached to this Decision.
7. 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:-

*"We have carried out the work as advised, it appears that we may have missed something or that we don't believe it is at all necessary.(fence).....The only reason both systems in the two properties weren't working was that they had ran out of oil..... The fence around the garden has never been complete, the hedges are doing the same job
The decking and balustrade were repaired last year , and appear to require repair again . I will carry this out as soon as I can
The kitchen patio doors were repaired last year and are not leaking .
All electrical work , heat sensors alarms , carbon monoxide alarms , plumbing repairs ,central heating systems and electrical reports have all been done."*

8. 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

9. 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

10. 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.

Signed Gillian Buchanan

Legal Member

Date

4/3/2020