

# Housing and Property Chamber First-tier Tribunal for Scotland



## Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 26(1) of the Housing (Scotland) Act 2006

Chamber Ref: Ref PRHP/RP/16/0236

**Ellenbank Lodge, Garngour Road, Lesmahagow, ML 11 0EU being the subjects registered in the Land Register of Scotland under Title Number LAN218326 ('the Property')**

**Lee Spencer and Sarah Dorothy Spencer both residing at 4 Kings Crescent, Camberley, GU15 4NA represented by Countrylet Limited of 33 Abbeygreen, Lesmahagow, ML11 0EQ ('the Landlords')**

**Miss Claire Goodwin residing at Ellenbank Lodge, Garngour Road, Lesmahagow ('the Tenant')**

**The Tribunal members are Jacqui Taylor (Chairperson) and Kingsley Bruce (Ordinary Member).**

### Background

1. The Private Rented Housing Committee ('the Committee') issued a Repairing Standard Enforcement Order ('RSEO') in respect of the Property which required the Landlords to:-

*'1. Exhibit to the PRHP Administration a certificate of new installation confirming that the boiler is safe and has been installed in compliance with the regulations.*

*2. Install carbon monoxide alarms in compliance with the regulations.*

*3. Repair or replace the garage door to render it in proper working order.*

*4. Attach the garden gate to the gate post to render it in proper working order.*

*5. Repair or replace the dishwasher to render it in proper working order.*

*6. Affix the missing tiles to the side of the bath panel and disconnect and remove the transformer unit and loose wires below the pelmet/ bath panel. '*

2. The Committee ordered that the works specified in the RSEO were to be carried out and completed by 28th October 2016.

3. On 3<sup>rd</sup> November 2016 the Ordinary member of the Tribunal inspected the Property. At the time of the reinspection items 2 and 3 of the RSEO had been satisfactorily completed. These items are:-

*'2. Install carbon monoxide alarms in compliance with the regulations and*

*3. Repair or replace the garage door to render it in proper working order.'*

Items 1,4, 5 and 6 of the RSEO had not been completed.

4. On 1<sup>st</sup> December 2016 jurisdiction of the Private Rented Housing Panel and its Committees passed to The Housing and Property Chamber.
5. A further reinspection was carried out by the Ordinary member of the Tribunal on 3<sup>rd</sup> February 2017. Item 4 of the RSEO (*Attach the garden gate to the gate post to render it in proper working order*) had been satisfactorily completed. The Landlords' agent advised that she had experienced difficulty obtaining access. The Landlords' electrician was outside the Property ready to install the replacement dishwasher.

The reinspection report is annexed and executed as relative hereto.

6. Following the reinspection the Landlords' agent sent an email to the Tribunal administration dated 3<sup>rd</sup> February 2017 advising inter alia that the new dishwasher had been installed and they also produced a compliant Gas Safety Certificate.
7. Thereafter the Tribunal Administration sent an email to the Landlords' agent requesting confirmation as to whether the Landlords wish to apply for a variation of the RSEO. No response was received.

### **Decision and Reasons**

8. Accordingly the Tribunal determined that items 1,2,3,4 and 5 of the RSEO have been **satisfactorily completed**.

The Tribunal also determined that item 6 of the RSEO **has not been complied** with.

The Tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlords has complied with the Repairing Standard Enforcement Order, in relation to the Property concerned, determined that the Landlords have failed to fully comply with the RSEO in terms of section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the Property is situated.

9. As only one item of the RSEO is outstanding the Tribunal did not proceed to consider if a Rent Relief Order should be made.

## **Appeals**

**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.**

**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.**

# **J Taylor**

Signed.....  
Chairperson

..... Date 7<sup>th</sup> April 2017

**Works required by the RSEO which have been undertaken:**

**Following an inspection on 3 November 2016 it had been noted as follows:**

A visual inspection of the property was undertaken, looking specifically at the items/areas which were subject of the application and the RSEO, as served on the Landlord.

At the time of the re-inspection the only items of work, required by the Repairing Standard Enforcement Order (RSEO) which had conclusively been undertaken were:

- A Carbon Monoxide detector had been fitted to the wall of the utility room
- The garage door had been repaired.

The remaining requirements of the RSEO appeared to be outstanding.

Based upon the findings of the re-inspection, the requirements of the RSEO had not been met at that date.

At the inspection of 3 February 2017 it was noted as follows:

The dishwasher had not been replaced, however, a contractor was waiting outside the property and by agreement with the tenant was admitted to the property during the course of the inspection for the purposes of installing a replacement, these works were incomplete before the end of the inspection.

The gate at the side of the house had been replaced.

Tiling along the side of the bath had not been re-instated.

The Landlord's agent advised verbally that the electrical fittings identified in the order had been tested by an electrician, who stated that there was no defect. It was pointed out that this did not satisfy the terms of the order, a light had become detached from behind the pelmet along the edge of the bath and unprotected electrical fittings were still loose, lying on the tiled floor, in an area where water was evident to floor surfaces and presenting a hazard.

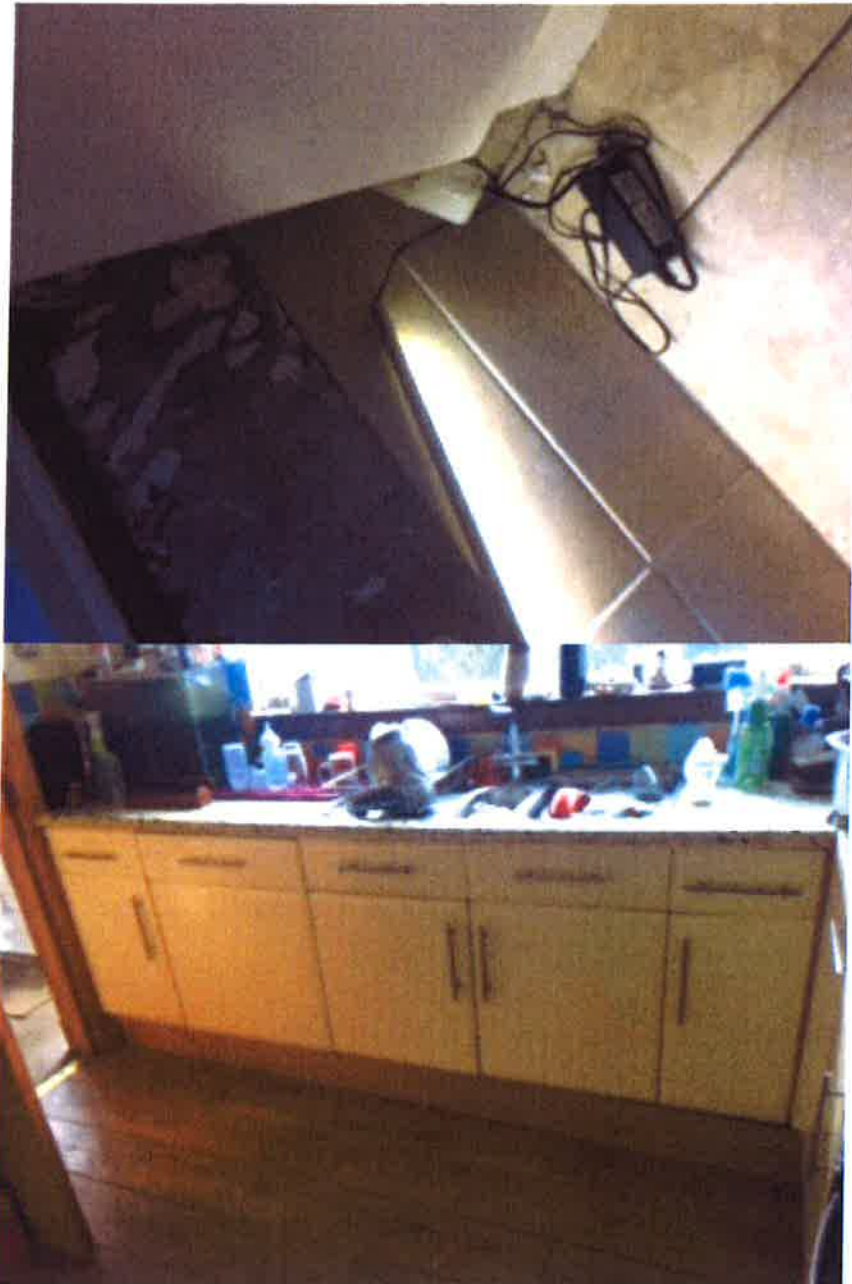
Kingsley K Bruce, MRICS  
Surveyor Member  
First Tier Tribunal for Scotland  
Housing and Property Chamber

**8 February 2017**

**J Taylor**

**PHOTOGRAPHS TAKEN AT TIME OF RE-INSPECTION 3 February 2017:**







**First Re-inspection:**







