

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 of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/RT/16/0138

Property at 1 Dornock Mill, Dornock, Annan, DG12 6TJ being the subjects registered in the Land Register of Scotland under Title Number DMF12080 ('the House')

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')

Hope- Vere Anderson residing at Barbeth, New Abbey, Dumfries, DG2 8DB ('the Landlord')

Miss Jade Boyle residing formerly at 1 Dornock Mill, Dornock, Annan, DG12 6TJ ('the Tenant')

The First-tier Tribunal for Scotland (Housing and Property Chamber), formerly the Private Rented Housing Committee, ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Lorraine Charles (Ordinary Member).

Background

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

'1. Instruct a competent gas central heating engineer to inspect the central heating system and carry out such repairs that are required to render it in proper working order. Following completion of the said works the Landlords are required to provide the Committee with a report from the said central heating engineer confirming that the central heating system is in proper working order.

2. Commission a report from a dampness specialist and carry out the recommended works to render the property water tight.'

2. The Committee ordered that the works specified in the RSEO were to be carried out and completed by 30th November 2016.
3. On 1st December 2016 jurisdiction of the Private Rented Housing Panel and its Committees passed to The Housing and Property Chamber.

4. On 31st March 2017 the Tribunal carried out an inspection of the House for the purpose of ascertaining whether the repairs required by the RSEO had been completed. They found that none of the required works had been completed. The inspection report dated 31st March 2017 has previously been exhibited to the parties.
5. On 31st March 2017 the Tribunal also held a hearing in Annan Community Centre to determine if the terms of the RSEO had been complied with. The Landlord attended. He was accompanied by Alan Wilson, owner of 5, Dornoch Mill; Colin Muir, father of the owner of 2 Dornoch Mill and Richard Mossop, roofing contractor. The Third party did not attend and was not represented.

Richard Mossop explained that eighteen months ago he had carried out work to start to rectify the dampness in the building. He was aware that the building suffered from vertical water penetration from the roof. He installed eaves trays at the front section of the roof of the building and this has been partially successful. He considered that it was also necessary to install eaves trays at the rear section of the roof. He explained that the purpose of the eaves trays is to ensure that water from the roof runs into the gutters and does not penetrate the fabric of the building.

He also advised that there is cracked rendering at the front of the building that needs to be repaired.

In connection with the repairs required to the gas central heating system the Landlord explained that the gas had been cut off as the last tenant had not paid their electricity account. Consequently he has been unable to have the system tested. He explained that as he does not live in Scotland he has had difficulty in having the gas reconnected and arranging for the system to be tested. Colin Muir volunteered to assist in having the gas reconnected and the system tested.

The Landlord requested a variation of the RSEO to allow a period of one year to complete the required works.

The Tribunal explained that they would not be prepared to grant such a long extension. They also explained that they were most concerned that evidence had not been provided that the gas central heating system is in proper working order. They agreed to defer from issuing their decision for sixteen days to allow time for the Landlord to exhibit the gas safety certificate.

Colin Muir sent the Housing and Property Chamber Administration a letter on behalf of the Landlord received on 13th April 2017. He enclosed the gas safety certificate dated 5th April 2017. The certificate stated that the boiler was not safe to use. However the gas supply to the Property had been capped off. A copy of the said gas safety certificate dated 5th April 2017 is annexed and executed as relative hereto.

6. On 8th May 2017 the Tribunal varied the RSEO to the effect that the period allowed for the completion of the works was extended to 30th September 2017.

7. On 12th January 2018 the surveyor member of the Tribunal carried out an inspection of the House for the purpose of ascertaining whether the repairs required by the RSEO had been completed. She found that external render had been replaced at ground level and the moisture levels in the lounge and bedroom 1 were falling but the moisture levels in the kitchen cupboard remain at 60% and 90% and in the bathroom they remain at 30%. The central heating could not be tested as the gas supply remained disconnected. The inspection report dated 12th January 2018 is annexed and executed as relative hereto.
8. A copy of the reinspection report dated 12th January 2018 was sent to the Landlord and the Third Party together with a form asking them to advise if they wished to attend a hearing. The form explained that if they do not request an oral hearing or do not respond, then it will be assumed that they are happy for the Tribunal to make a decision based on the written representations without a hearing. The only response received was from the Third Party which stated that they did not wish to attend a hearing. No response was received from the Landlord.

Decision and Reasons

9. The RSEO specified two items:

Item 1 of the RSEO:

'1. Instruct a competent gas central heating engineer to inspect the central heating system and carry out such repairs that are required to render it in proper working order. Following completion of the said works the Landlords are required to provide the Committee with a report from the said central heating engineer confirming that the central heating system is in proper working order.'

The gas safety certificate dated 5th April 2017 stated that the central heating boiler is not safe to use. As no further evidence has been produced to the Tribunal in relation to the central heating system and it remains disconnected the Tribunal determine that Item 1 of the RSEO **has not been complied with**.

Item 2 of the RSEO:

'2. Commission a report from a dampness specialist and carry out the recommended works to render the property water tight.'

The only dampness specialist report provided by the Landlord is the verbal report provided by Richard Mossop, the roofing contractor, at the hearing held on 31st March 2017. As previously stated he explained that the building suffered from vertical water penetration from the roof and he considered that the remedial works required are:

1. To install eaves trays at the rear section of the roof and
2. To repair the cracked rendering at the front of the building.

The said reinspection report by the surveyor member of the Tribunal dated 12th January 2018 states that no works have been carried out to the common roof at the rear of the House. It also states that whilst the external rendering has been replaced at ground floor level there are still high moisture readings in the House.

Consequently as the said works required by Richard Mossop have not been completed and the House has not been rendered water tight the Tribunal determine that item 2 of the RSEO **has not been complied** with.

The Tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlord 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.

10. As there is no Tenant in the Property 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 27th March 2018

This inspection is for gas safety purposes only to comply with the Gas Safety (Installation and Use) Regulations. Flues have been inspected visually and checked for satisfactory evacuation of products of combustion. A detailed internal inspection of the flue integrity, construction and lining has NOT been carried out.

REGISTERED BUSINESS DETAILS Reg No: 523512
 Gas Engineer: B Cluckie
 Gas Safe registered engineer No: 8958327
 Company: B Cluckie Limited
 Address: 1 Doves Hill
2, Warrington
 Postcode: WA2 8PP Tel: 01397261434

INSPECTION/INSTALLATION ADDRESS
 Name & Title: Flat 1 Park & Mill
 Address: Doveck
 Postcode: _____
 Tel: _____
 I certify that I carried out inspections on the appliances detailed below.
 Signed: B Cluckie inspection Date: 5.4.17

LANDLORD (OR AGENT) NAME & ADDRESS (if applicable)
 Name & Title: Mr Anderson
 Address: Barnett
New Abbey
 Postcode: _____
 Tel: _____

APPLIANCE DETAILS

Location	Make and Model	Type	Flue Type OF/AS/FL	Operating pressure in accordance with or below	Safety devices in operation	Smoke pocket flue test	Flue visual condition	Flue combustion analyser reading	Final combustion analyser reading	Appliance safe to use
1 Kitchen	Daniel combi 1056	combi R/S		yes	yes	pass	pass	pass	pass	yes
2										
3										
4										
5										

FLUE TESTS

Flue visual condition	Satisfactory termination	Flue combustion analyser reading	Final combustion analyser reading
pass	yes	pass	pass

INSPECTION DETAILS

Landlord's appliance	Advice ventilation	Flue visual condition	Satisfactory termination	Appliance serviced	Appliance safe to use
yes	yes	pass	yes	yes	yes

Gas Installation Pipework: Satisfactory Visual Inspection: Yes No Emergency Control Accessible: Yes No Satisfactory Gas Tightness Test: Yes No Equipotential Bonding Satisfactory: Yes No

GIVE DETAILS OF ANY FAULTS

1	meter box missing
2	Boiler not 2019 compliant
3	Flue to close to air vent
4	NO Gas at Meter
5	

RECTIFICATION WORK CARRIED OUT
 Vent reconnected over Gas supply to flat capped off

WARNING NOTICE ISSUED

WARNING NOTICE ISSUED	WARNING TAG OR STICKER FACED
yes	yes

Audible CO Alarms: Approved CO Alarms Fitted: Yes No N/A Are CO Alarms in Date: Yes No N/A Testing of CO Alarms Satisfactory: Yes No N/A Smoke Alarms Fitted: Yes No N/A

Number of appliances tested: 1 **NEXT GAS SAFETY CHECK MUST BE CARRIED OUT WITHIN 12 MONTHS**

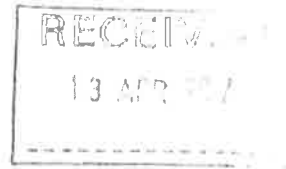
This record is issued by: B Cluckie Signed: B Cluckie Print Name: B Cluckie Date: 5.4.17

Received on behalf of the Landlord/Home Owner: Signed: _____ Tenant/Agent/Landlord/Home Owner (where applicable): _____ Date: 5 April 2017

Izalea Cottage,
Lowthertown,
Eastriggs,
Dumfriesshire,
DG12 6TB.

Tel 01461 40364
colin@colinmuir.co.uk

First Tier Tribunal for Scotland,
Housing & Property Chamber,
4th Floor,
1 Atlantic Quay,
45 Robertson Street,
Glasgow.



REFERENCE: PRHP/RT/16/0138

Dear Madam,

Please find attached a copy of the gas safety certificate as required to cover the issue at:

Flat 1, Dornock Mill, Dornock, DG12 6 TJ

I trust this certificate meets the legal requirement for let properties. Scottish Gas has sealed (locked out) the meter at present to allow the service engineer to raise the certificate. This will remain in place until Mr Hope v Anderson returns. If there is still a problem with your department closing this issue within the deadline, please respond direct to me. My details are above.

On behalf of Mr. H v Anderson,

Yours faithfully,



Colin Muir

Housing and Property Chamber First-tier Tribunal for Scotland



Date of Inspection - 12th January 2018 at 10:30

Property Reference - PRHP/RT/16/0138

Property Address – 1 Dornock Mill, Dornock, Annan , DG12 6TJ

Surveyor – Lori Charles

Previous Inspection – 31st March 2017

Access – Mr Hope Vere Anderson - Landlord

Weather – Dry/bright

In attendance – Mr Hope Vere Anderson

Repairing Standard Enforcement Order (RSEO) dated

J Taylor

Repairing Standards Enforcement Order (RSEO) dated In particular the Tribunal requires the Landlord to:-

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

'1. Instruct a competent gas central heating engineer to inspect the central heating system and carry out such repairs that are required to render it in proper working order. Following completion of the said works the Landlords are required to provide the Committee with a report from the said central heating engineer confirming that the central heating system is in proper working order.

2. Commission a report from a dampness specialist and carry out the recommended works to render the property water tight.'

All photographs were taken at the re-inspection on the 12th January 2018 (see schedule below)



Picture taken 31/3/17



Picture taken 12/1/18

External render has been replaced at ground floor level however the upper levels are still showing cracked and boss render allowing water ingress at upper levels.

J Taylor



Picture taken 31/3/17 Lounge



Picture taken 12/1/18 Lounge

Moisture readings taken on the 31/3/17 have fallen from 50% to 25% however the property has had no heating on to assist with the drying out process.



Picture taken 31/3/17 bedroom 1



Picture taken 12/1/18 bedroom 1

Moisture readings have fallen from 24% to 18%

J Taylor



The moisture readings taken in the kitchen cupboard still remain at 60% and 90%.The bathroom remains at 30%.

The landlord advised no works have been carried out to the common roof at the rear of the property as discussed at the hearing on the 31/3/17. This is to be discussed with the other owners within the property during March 2018 once the other overseas owner returns.

The central heating system could not be tested as the properties gas supply remains disconnected as per the previous inspection 31/3/17

Comments: This report will be submitted to the First Tier Tribunal for Scotland (Housing Property Chamber) for their decision.

Lori Charles BSc Hons MRICS

Ordinary Member (Surveyor)

Date 12th January 2018

Schedule of photographs taken during the re-inspection of 1 Dornock Mill, Annan, DG12 6TJ by the Ordinary Member of the First Tier Tribunal for Scotland (Housing and Property Chamber) on the 12th January 2018.

Reference Number PRHP/RT/16/0138

J Taylor