

Housing and Property Chamber

First-tier Tribunal for Scotland



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

~~Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006~~
Section 24

Chamber Ref: FTS/HPC/RT/18/3133

Title no: ABN78144

11 Ware Road, Peterhead, AB42 1NQ ("the House")

The Parties:-

Miss Ashley Graham, residing at 11 Ware Road, Peterhead, AB42 1NQ ("the Tenant")

Aberdeenshire Council, Housing Strategy, Gordon House, Blackhall Road, Inverurie ("the Applicant")

Stuart John Badenoch McNally, residing at Kilmarnock Drive, Cruden Bay, Peterhead, AB42 0NG ("the Landlord")

Whereas in terms of their decision dated 16 May 2019, The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the Landlord has failed to ensure that the House is:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;
- (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
- (e) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

the Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House concerned meets the repairing standard and

that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the tribunal requires the landlord:-

- (a) Carry out such works of repair or replacement to the main bedroom and the second downstairs bedroom window to render them properly wind and watertight, capable of opening and closing properly and generally compliant with the repairing standard.
- (b) To carry out such works of repair or replacement to the French doors sufficient to render them sufficiently wind and watertight and generally compliant with the repairing standard.
- (c) To repair or replace the extractor fan in the en-suite bathroom and to ensure that it is vented externally correctly, to eradicate the mould and peeling paint and to carry out such works of redecoration as are appropriate to meet the repairing standard.
- (d) To carry out such works as are required to the en-suite bathroom to render it compliant with the repairing standard. In particular the Landlord requires to investigate whether there is damp affecting the walls and floor beneath the bath, providing a breeding ground for insects. The Landlord is to take such steps as is necessary to prevent such insect infestation.
- (e) To carry out appropriate works to render the main bathroom at the Property compliant with the repairing standard including reinstating the wall linings and installing the shower and completing it by redecoration and the addition of floor coverings.
- (f) Installing hardwired and interlinked smoke detectors in the upper hall and lounge.
- (g) Provide a gas safety certificate from a gas safe registered engineer confirming that the gas system within the Property is safe to use and compliant with the relevant regulations.
- (h) Providing an up to date electrical installation condition report describing the installation as satisfactory with no items marked "C1" or "C2" which will confirm that the electrical system within the Property is compliant within the repairing standard.

The Tribunal order that the works specified in this Order must be carried out and completed within the period 2 months from the date of service of this Notice.

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.

In terms of Section 63 of the Act, 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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the two preceding pages are executed by Ewan K Miller, legal member of the Tribunal, at Dundee on 16 May 2019 in the presence of the undernoted witness:-

L Johnstone

E K Miller

Legal Member

witness

KINSAID JOHNSTONE name in full

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