

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION OF THE TRIBUNAL UNDER SECTION 25 OF THE HOUSING (SCOTLAND) ACT 2006

In connection with

Property at Croft of Danshillock, King Edward, Banff AB45 3NJ more particularly described in Land Certificate Title number ABN101219 (hereinafter referred to as "the House")

The Parties:

Amanda McIrvine, formerly of Croft of Danshillock, King Edward, Banff AB45 3NJ (hereinafter referred to as "the Tenant")

Roger Mark Adam, 18 The Glebe, Kemnay, Inverurie AB51 5NW and Jane Michelle Massey, Lower Plaidy, Turriff AB53 5RJJ (hereinafter referred to as "the Landlord")

CHAMBER REFERENCE PRHP/RP/15/0174

The Tribunal comprised the following members:

**John McHugh, Chairperson
John Blackwood, Housing Member
Mark Andrew, Surveyor Member**

DECISION

The Tribunal decided to revoke the Repairing Standard Enforcement Order dated 22 February 2016 ("the RSEO").

The decision of the Tribunal was unanimous.

Background

The RSEO, which was made by the Tribunal's predecessor, the Private Rented Housing Panel, required the Landlord to complete the following work within six months of service of the RSEO:

- 1 To install fire detection devices in compliance with the terms of the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires
- 2 To render the House reasonably free of dampness.
- 3 To carry out repairs to the roof such that it is in reasonable condition and reasonably able to resist the elements.
- 4 To produce an Electrical Installation Condition Report prepared by a qualified electrician who is, or whose employer is, registered with NICEIC, SELECT or NAPIT, which confirms that the electrical installations within the House are in safe, working order.

Reasons for the Decision

The works required by the RSEO have not been carried out.

On 12 January 2017 the Sheriff at Banff granted an appeal against the making of the RSEO against Mr Adam. No appeal was made in respect of Ms Massey. The effect of this is that the RSEO remains registered against the House.

Ms Massey and Mr Adam have been engaged in a lengthy divorce process and the House appears to play a part in that process.

On 20 September 2018 Mr Adam's solicitor wrote to the Tribunal advising that:

- 1 A divorce settlement had been agreed in terms of which Mr Adam is to obtain sole title to the House.
- 2 A mortgage is to be secured on the House as part of that process.
- 3 The mortgage lender will not advance loan sums until the RSEO is revoked.
- 4 The House is to be occupied by Mr Adam and will not be let.

In reliance upon these representations and in the unusual circumstances of this case, the Tribunal is prepared to exercise its discretion under section 25(1) of the 2006 Act to revoke the RSEO.

Right of Appeal

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

J McHugh

John McHugh
Chairperson

Date: 9 October 2018