

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### **DETERMINATION BY FIRST-TIER TRIBUNAL FOR SCOTLAND (HOUSING AND PROPERTY CHAMBER)**

**Statement relative to the Certificate of Completion of work issued by the First-tier tribunal for Scotland (Housing and Property Chamber) under section 60 of the Housing (Scotland) Act 2006**

**Chamber Reference: FTS/HPC/RP/22/0018**

**Sasines Description: Subjects forming part and portion of the farm and lands of Wester Calcots in the County of Moray being the subjects more particularly described in Feu Disposition to Robert Petrie Mutch recorded in the Division of the General Register of Sasines for the County of Moray on 26<sup>th</sup> May 1926**

#### **The Parties**

**Mr Kevin Lynch and Mrs Kelly Lynch, Wester Calcots Farm, Elgin, IV30 5PH (“The Former Tenants”)**

**Mr Alistair MacKay, Brackla Farm, Cawdor, Nairn, IV12 5QY (“The Landlord”)**

**Subjects: The Farmhouse, Wester Calcots Farm, Elgin, IV30 5PH (“the Property”)**

#### **Tribunal Members**

**Ms H Forbes (Legal Member)**

**Mr M Andrew (Ordinary Member)**

#### **Decision**

1. Further to a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dated 16<sup>th</sup> May 2022, the Tribunal issued a Repairing Standard Enforcement Order (‘RSEO’) dated 18<sup>th</sup> May 2022 in respect of the Property. The RSEO required the Landlord to:
  1. Ensure the roof above the utility room is properly constructed and flashed, and the roof timbers are repaired or replaced;
  2. Install suitable insulation to the roof and walls of the utility room;

3. Reinstate the interior walls and ceiling of the utility room;
4. Repair or replace the flooring throughout the utility room;
5. To the rear elevation, relocate or replace the downpipe by installing a new gully or downpipe;
6. To the side elevation, install a second downpipe and gully close to the chimney;
7. To the front elevation, repair sections of corroded guttering and any broken downpipes;
8. Install a bathroom extractor fan with humidistat;
9. Repair or replace both skylights and redecorate damaged areas;
10. Instruct a building surveyor or structural engineer to
  - (i) inspect the attic space and roof timbers to determine what work is required in the short term to repair damaged or decayed roof timbers.
  - (ii) determine whether there is water ingress in the roof space;
  - (iii) carry out any essential repairs.
11. Repair or replace the gate to the Property.
12. Repair or replace the fence around the Property;
13. Replace the void rendering to prevent water ingress. Consideration should be given to applying lime mortar pointing and/or render.

The Tribunal ordered that the works specified in the RSEO must be carried out within 6 weeks from the date of service of the RSEO, which was issued on 25<sup>th</sup> May 2022.

2. Following representations from parties, the Tribunal decided by decision dated 5<sup>th</sup> September 2022 to vary the RSEO to allow a further period to 31<sup>st</sup> October 2022 to complete the works required by the RSEO.
3. By email dated 24<sup>th</sup> November 2022, the tenants confirmed that the tenancy ended on 14<sup>th</sup> November 2022.
4. Following representations from the Landlord, the Tribunal decided by decision dated 21<sup>st</sup> December 2022 to allow a further variation to the RSEO to enable all works to be carried out by 3<sup>rd</sup> March 2023.

5. A re-inspection of the Property took place on 3<sup>rd</sup> May 2023. The Tribunal observed that all works had been undertaken to fulfil the requirements of the RSEO save for the laying of replacement floor covering to the utility room and adjoining shower room and concrete repairs to the exterior pathway adjoining the downpipe on the rear elevation so as to ensure the rainwater runs into a suitable clean water drain.
6. The Tribunal considered whether it was appropriate to find that the works required by the RSEO had been completed and whether the appropriate Certificate of Completion in terms of section 60 of the 2006 Act should be issued. The Tribunal was satisfied that the majority of the works required had been carried out. The Tribunal considered that it had been appropriate for the Landlord to delay laying replacement floor covering to allow the Tribunal to inspect the concrete floor in the utility room and shower room. The Tribunal accepted the Landlord's assurance that the remaining minor works would shortly be completed. The Tribunal agreed that the appropriate Certificate should be issued.

### **Right of Appeal**

**A landlord, tenant or third party Tenant 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.**

### **Effect of section 62 of the 2006 Act**

**Where such an appeal is made, the effect of the decision and the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decisions and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

H Forbes

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**Legal Member**

Chairperson  
First Tier Tribunal for Scotland (Housing and Property Chamber)  
Date: 18<sup>th</sup> May 2023