

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**First-tier tribunal for Scotland (Housing and Property Chamber)**

**STATEMENT OF DECISION: Housing (Scotland) Act 2006**

**Chamber Ref: PRHP/KY6/146/10**

**Property at 73 Cullen Court, Cullen Drive, Glenrothes, Fife, KY6 2JJ ("the Property")**

**The Parties:-**

**ROBERT JACKSON, formerly residing at 73 Cullen Court, Cullen Drive, Glenrothes, Fife ("the Tenant")**

**AARAN DARR and CO. LIMITED a company incorporated under the Companies Acts (Registered Number 06331638) and having their Registered Office at 23 Porters Wood, St Albans, Hertfordshire, AL3 6PQ ("the Landlord")**

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property concerned and taking account of the most recent re-inspection of the Property, determined that the Landlord had now complied with the terms of the RSEO and resolved to issue a Certificate of Completion in respect of the works required by the RSEO. The Tribunal also resolved to issue a revocation of the Rent Relief Order in place over the Property.

**Background**

1. This matter was originally heard before The Private Rented Housing Panel in 2011. On 1 December 2016 the power and functions of The Private Rented Housing Panel were transferred to The First-tier Tribunal for Scotland (Housing and Property Chamber). Accordingly the Tribunal has the necessary jurisdiction to continue with and determine this matter.
2. By way of a Decision dated 7 March 2011, a Committee of The Private Rented Housing Panel had issued a determination that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").

3. The Committee had placed an RSEO on the Property, also dated 7 March 2011, the RSEO required the then owner of the Property:-

- (a) to carry out such repairs as are necessary to the mutual roof of the larger block of which the Property forms part to ensure there is no further water ingress into the Property and to repair any damage caused by previous water ingress to the Property, with particular reference to the dividing wall between the main bedroom and the bedroom currently used as a storeroom.
- (b) to carry out such works to the electrical system within the Property sufficient to allow the issue of a clear periodic inspection report by a qualified electrician over the Property and to exhibit the said report to the Committee.
- (c) to install hardwired interlinked smoke alarms to the Property to the appropriate standard.
- (d) to carry out such repairs that are required to the central heating system within the Property and to obtain a clear and current gas safety certificate over the Property and to exhibit this to the Committee.
- (e) to carry out such works as are necessary to the doors of the Property (both internal and external) to ensure that they are all capable of opening and closing properly and staying shut.
- (f) to repair or replace the missing/cracked floorboards in the upper hallway of the Property sufficient to remove the trip hazard.
- (g) to repair or replace the window frame within the main bedroom sufficient to ensure that all areas of wood damaged by rot are removed.

The RSEO had required the then owner to carry out the works within a period of 42 days from the date of service of the original RSEO.

The proprietor of the Property at that time was a Morenike Yomi Ogunkoya.

On 28 April 2011 the Surveyor Member of the Committee, Mr David Godfrey had carried out a further reinspection of the Property. Ms Ogunkoya had carried out no works as set out by the RSEO at the date of reinspection. The condition of the Property and the fact that there had been no engagement with Ms Ogunkoya led the Committee to serve a Rent Relief Order ("RRO") on the Property at 90%. The matter was also reported to the Local Authority and to the Police for consideration for prosecution at that time.

Thereafter, as the Committee had exhausted its procedures, matters fell into abeyance. In due course Ms Ogunkoya sold the Property to a Mr Shalin Sood on 24 April 2015. The change of ownership came to the attention of the Committee and, as a result, a further re-inspection of the Property was carried out. Mr David Godfrey, the original Surveyor Member of the Committee, again re-inspected the Property on 5 February 2016. This re-inspection showed that some further works

had been carried out. Flooring had been laid on the upper floor landing and the floor was now level. However, generally, the Property was still in poor condition. There was no evidence of repairs having been carried out to the roof covering and damp staining/mould was still apparent throughout the Property. No electrical installation report had been provided. A compliant smoke alarm system was not present. The windows remained in poor order and no gas safety certificate had been provided. In the circumstances the Committee reached a determination that was set out in a decision issued on 1 April 2016 indicating that the RSEO would remain in place.

In due course Mr Sood reverted to the Committee to indicate that he had carried out further works. A further inspection was carried out on 14 July 2016, again by Mr David Godfrey. It appeared that works had been carried out to the roof covering. However, during the course of the inspection, water was noted to still be leaking through the roof, dripping from the ceiling and collecting on the floor of the southeast bedroom. Although an electrical installation report had been prepared dated 31 March 2016, it was not in satisfactory terms in that it stated there were potentially dangerous items. An appropriate smoke alarm system had not yet been installed and the doors and windows in the Property remained in poor condition.

Over the coming months Mr Sood did provide some documentation and in the course of 2017 and early 2018 a satisfactory electrical installation condition report and gas safety certificate were exhibited. The Tribunal had tried to organise a re-inspection of the Property to check the other outstanding items but access was never provided. Accordingly the RSEO remained in place.

There was then another change of ownership and Aaran Darr & Co. Limited had become the owners. The Landlord contacted the Tribunal and sought a re-inspection. On 5 July 2018 Mr Ewan Miller and David Godfrey of the original Committee again re-inspected the Property. The Property was vacant. Access was given by the Landlord's agent Mr Andrew Sharp. It was apparent that a more significant refurbishment of the Property had taken place. The Property had been redecorated and re-carpeted throughout and a new bathroom and kitchen installed. In relation to the specific repairs outstanding, the Tribunal noted that hardwired interlinked smoke and heat detectors had been installed. A Landlord's gas safety certificate in appropriate terms was provided. The doors of the Property were found to open and close properly and stay shut. The window frame in the main bedroom was found to be in satisfactory condition. Whilst the windows were still generally dated throughout the Property they did nonetheless comply with the repairing standard. An electrical report from Moncrieff Security Solutions was provided. The Tribunal did note that this company was not actually technically qualified to issue an electrical installation condition report, however the Tribunal was in possession of a valid electrical installation condition report from Mr Sood that was still in date and therefore the Tribunal was satisfied in this regard. The Tribunal did note that there was damp staining on the southeast bedroom ceiling where it appeared water ingress was still ongoing. The Landlord's agent had provided an invoice from a roofing company and the Tribunal accepted that roof repairs had been carried out. The Landlord's agent indicated at the re-inspection that he would have the roofing company attend to

tidy up this last remaining point. In due course the Tribunal was provided with confirmation from the roofing company that they had carried out a further repair to address the damp staining issue on the southeast bedroom ceiling.

The Tribunal (comprising Mr E K Miller, Chairman and Legal Member and Mr David Godfrey, Ordinary Member) considered matters. It was clear that the Property had been significantly refurbished by the Landlord. It had taken a long time for this Property to come back to an appropriate condition and the Tribunal was satisfied with the works the Landlord had carried out. Accordingly the RSEO was no longer required and on that basis the Tribunal determined that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act would be granted. The Tribunal also resolved to revoke the RRO that had been put in place on the Property.

The decision of the Tribunal was to lift the RSEO and grant a Certificate of Completion discharging the RSEO and also to revoke the RRO.

4. The decision of the tribunal was unanimous.

### **Right of Appeal**

5. 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.

### **Effect of section 63**

6. Where such an appeal is made, the effect of the decision and of 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 decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

*Ewan Miller*

Signed ..... Chairperson

Date ..... 21/8/17