

# Housing and Property Chamber

## First-tier Tribunal for Scotland

---



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

**Statement of Decision under section 25(1)(a) of the Housing (Scotland) Act 2006 (“the 2006 Act”)**

**Chamber Ref: PRHP/RP/16/0343**

**Subjects at 2 South West Street, Buckie, Moray, AB56 1BR (“the Property”)**

**The Parties:-**

**Mr John Rumbles, formerly residing at 2 South West Street, Buckie, Moray, AB56 1BR (“the former Tenant”)**

**and**

**Fiona Watt, residing at Arradoul House, Arradoul, Buckie, AB56 5BB (“the Landlord”)**

**The Tribunal comprised:-**

Mrs Ruth O’Hare	-	Legal Member
Mr Angus Anderson	-	Ordinary Member

### **Background**

1. Reference is made to the determination of the Tribunal dated 3 March 2017 which determined that the Landlords had failed to comply with the duty imposed by section 14(1)(b) of the Act in that he had failed to ensure the Property met the Repairing Standard. The works required by the RSEO were:-
  - (a) carry out such works as are necessary to the roof of the house and external walls to prevent water ingress;
  - (b) repair or replace the damp and damaged wall linings in the kitchen and utility areas;
  - (c) carry out such works as are necessary to clear all mould from the house; and
  - (d) carry out internal decoration throughout the house following the completion of the aforesaid works.

The Tribunal required the works be completed within a period of six months from the date of service of the order.

2. On 13 October 2017, the Landlord emailed the Tribunal to advise that she would not be completing the works specified in the order. The reason for this was that a prospective purchaser had offered to buy the property and had indicated a wish to complete the works himself. The Landlord advised that the local authority were aware of the situation.
3. On 31 October 2017 the Ordinary Member carried out a re-inspection of the property. The Landlord was present and allowed access. No works had been undertaken to the roof and outer walls, which was confirmed by the Landlord. The rear wall linings of the kitchen had been renewed together with the area above the rear entrance door and moisture readings to these areas were normal. However above average moisture meter readings were noted to existing linings within the former kitchen and utility area. Most areas of the house had been redecorated and there was no significant mould found. The re-inspection report is attached herewith.
4. The re-inspection report was circulated to parties for comment. The Landlord responded to again advise that she planned to sell the property and would not be carrying out any further works as a result. The prospective purchaser required to sell their own property before the sale could proceed hence the delay.

## **Decision**

5. The Tribunal having made such enquiries as it saw fit for the purpose of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, determined that the RSEO should be varied so as to give the Landlord a further six months to complete the works required all in terms of Section 25(1) of the Housing (Scotland) Act 2006.

## **Reasons for the decision**

6. The Tribunal determined the application having regard to the findings of the re-inspection and the written representations from the Landlord. The Tribunal was also conscious that the property was currently vacant and could not be re-let whilst the RSEO was in place. If the Landlord or any subsequent purchaser were to do so they would be committing a criminal offence.
7. The Tribunal noted that some works had been carried out to the property however the majority were outstanding. This included the repairs to the roof which in the opinion of the Tribunal was the most significant aspect of the RSEO, being the root cause of the high moisture readings at the rear of the property.
8. However the Tribunal accepted the Landlord's intention to sell the property as credible. Whilst the Tribunal was clear that the works to the property were essential in order to ensure the house met the Repairing Standard, the Tribunal was aware that with the property lying vacant any risk in allowing further time for the works to be carried out was minimal. It had been made clear to the

Landlord the consequences of re-letting the property whilst the RSEO was in place and the Tribunal was confident that any prospective purchaser would be made aware of this by the Landlord.

9. Accordingly the Tribunal determined it would be reasonable and proportionate to vary the RSEO under section 25(1)(a) to extend the period for the works by a further six months. The Tribunal expects the Landlord to keep it up to date with any developments regarding the sale of the property and provide contact details for the purchaser in the event that the sale is to proceed. This will then give the Tribunal the opportunity to consider matters in light of the new owner's intentions for the property.

**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.**

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.**

Signec

  
Ruth O'Hare  
Legal Member

3 February 2018

THIS IS THE RE-INSPECTION REPORT REFERRED  
TO IN THE DECISION OF THE TRIBUNAL DATED  
3 FEBRUARY 2018

## Housing and Property Chamber First-tier Tribunal for Scotland



Housing (Scotland) Act 2006: Re-inspection Report

Property: 2 South West Street, Buckie, AB56 1BR

Chamber Reference : PRHP/RP/16/0343

Re-inspection Date: 31/10/2017

Weather conditions: Mild and overcast, with recent rain.

In attendance: Ms Fiona Watt, Landlord.

Tribunal Member: Angus Anderson



**Front Elevation.**

## **Repairing Standard Enforcement Order (RSEO)**

### **Works required by the RSEO:**

#### **The Tribunal requires the landlord to:-**

- (a) carry out such works as are necessary to the roof of the house and external walls to prevent water ingress;
- (b) repair or replace the damp and damaged wall linings in the kitchen and utility areas;
- (c) carry out such works as are necessary to clear all mould from the house; and
- (d) carry out internal decoration throughout the house following the completion of the aforesaid works.

### **Works in the RSEO undertaken:**

- (a) In terms of a visual inspection, there was no evidence of any works to the roof and outer walls. Ms Watt confirmed that no work has been undertaken.
- (b) The rear wall linings of the former kitchen have been renewed together with the area above the rear entrance door. Moisture meter readings to these areas were normal. However, above average moisture meter readings were again noted to existing linings within the former kitchen and utility area (new kitchen).
- (c) Most areas of the house have been redecorated or are in the course of redecoration. There was no significant mould found during the re-inspection.
- (d) Most of the rooms of the house have been redecorated or are in the course of redecoration. However, decorations are incomplete to various areas.

### **Observations/comment:**

Hard wired, interlinked smoke/heat detection has been installed within the property.

The house remains unoccupied.

This report will be distributed to the parties and their representatives for their comment. The report and comments received will be referred to the Tribunal for consideration and further action.

**Photographs were taken on the day of inspection and are attached.**

Angus Anderson, MRICS; Date of report: 01/11/2017.

# Housing and Property Chamber First-tier Tribunal for Scotland

---



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

Re-Inspection Report: Housing (Scotland) Act 2006

Schedule of Photographs

2 South West Street, Buckie AB56 1BR

Chamber Reference : PRHP/RP/16/0343

Re-Inspection Date: 31/10/2017



Figure 1 Front Elevation





Figure 2 Left Side Elevation, utility room, kitchen and middle bedroom windows



Figure 3 Front Bedroom -new plasterboard



Figure 4 Front Bedroom typical moisture meter reading (12%) (previously 15%)



Figure 5 Lounge.- walls repainted.





Figure 6 Middle Bedroom - Overview, repainted.



Figure 7- Middle bedroom - water marks to timber window sill.



Figure 8 Rear bedroom - new plasterboard. In course of redecoration.



Figure 9 Rear bedroom - Meter reading (16%) rear corner at outer wall (as before).



Figure 10 Former kitchen overview. Cabinets removed, linings part renewed.



Figure 11 Doorway to utility room(new kitchen) - Meter reading (9%)(previously 100%).



Figure 12 Kitchen - side wall adjoining bathroom, high level. Moisture meter reading (100%)



Figure 13 Former utility room, now kitchen overview



Figure 14 Former utility room/new kitchen - moisture meter reading (100%), as before.



Figure 15 Rear hall - new plasterboard above rear entrance door.





Figure 16 Rear hall - moisture meter reading (8%) (previously 100%).



Figure 17 Rear entrance - as before.





Figure 18 Rear section of flat roof with ponding over bathroom, as before.



Figure 19 Rear section of flat roof over former utility room/new kitchen - as before.



Figure 20 Rear section of flat roof at kitchen/utility room junction with ponding over former kitchen - as before.