

# **Housing and Property Chamber**

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

---



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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006, Section 60**

**Chamber Ref: FTS/HPC/RT/17/0237**

**Property at 5 Drostan Drive, Mintlaw, Peterhead, AB42 5EG  
("The Property")**

**The Parties:-**

**ABERDEENSHIRE COUNCIL, Gordon House, Blackhall Road, Inverurie, AB51 3WA  
("the Third Party Applicant")**

**Mrs LORRAINE JUNOR, 5 Drostan Drive, Mintlaw, Peterhead, AB42 5EG  
("the Tenant")**

**MR DAVID BROWN, 13 Drostan Drive, Mintlaw, Peterhead, AB42 5EG  
("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 has complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, and taking account the documentation submitted to the tribunal, 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.**

**Background**

1. Reference is made to the determination of the tribunal dated 16 October 2017 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that he had failed to ensure that the Property met the repairing standard. The works required by the RSEO were: -
  - (a) To repair or replace the mixer tap at the kitchen sink to ensure that the tap operates correctly and is in a reasonable state of repair and in proper working order.
  - (b) To repair or replace the light fitting above the shower in the bathroom to ensure that it is in a reasonable state of repair and in proper working order.
  - (c) To replace the handle on the internal door from the hall into the spare bedroom to ensure that the door opens and closes correctly and is in a reasonable state of repair and in proper working order.

- (d) To repair or replace the middle spotlight beneath the fitted units over the bed in the main bedroom to ensure that it is in a reasonable state of repair and in proper working order.
- (e) To install sufficient insulation in the loft where presently absent to ensure the insulation is in a reasonable state of repair and in proper working order.
- (f) To replace the broken concrete slab within the driveway near the entrance thereto to ensure that it is in a reasonable state of repair and in proper working order.
- (g) To produce a clear Electrical Installation Condition Report from a suitably qualified electrician confirming that the electrical installations within the property are in proper working order and comply with the relevant regulations with no items marked as Category 1 or Category 2. The Landlord is to exhibit such clear Electrical Installation Condition Report to the tribunal.

The RSEO gave the Landlord 4 weeks to carry out the works.

2. On 15 March 2018 the Ordinary (Surveyor) Member of the tribunal, Mr Mark Andrew, re-inspected the Property on behalf of the tribunal. The Tenant and Emma Bain on behalf of the Third Party Applicant were present.

The Ordinary (Surveyor) Member noted that some works had been carried out since the original inspection and issuing of the RSEO, namely:-

- (a) The mixer tap at the kitchen sink had been replaced and is in a reasonable state of repair and in proper working order.
- (b) The light fitting above the shower had been repaired or replaced and is in a reasonable state of repair and in proper working order.
- (c) The handle to the internal door from the hall to the spare bedroom had been replaced and is in a reasonable state of repair and in proper working order.
- (d) The insulation in the loft had been spread over those areas where it was absent and it is in a reasonable state of repair and in proper working order.
- (e) The broken concrete slab within the driveway had been replaced and is in a reasonable state of repair and in proper working order.
- (f) The Landlord had produced and exhibited to the tribunal a clear Electrical Installation Condition Report.

The Ordinary (Surveyor) Member noted that other works required in terms of the RSEO remained outstanding namely:-

The middle spotlight beneath the fitted units over the bed in the main bedroom was not working and requires to be repaired or replaced to ensure that it is in a reasonable state of repair and in proper working order.

The Ordinary (Surveyor) Member also noted the following defect namely:-

The shower unit leaked badly where the fixed glazed side nearest the bathroom door meets the shower tray. This was initially complained of but was apparently fixed at the time of the inspection and hearing. It has since failed and produces a sizeable puddle after a few minutes shower.

3. By email dated 10 April 2018 Emma Bain on behalf of the Third Party Applicant advised the tribunal that, having spoken to the Tenant on 9 April 2018, the outstanding works required by the RSEO and the defect affecting the shower unit had been completed by the Landlord. The tribunal also received representations from the Landlord dated 3 April 2018 indicating that the spotlights within the bedroom had been replaced and the shower cubicle re-sealed.

There are therefore no outstanding works required in terms of the RSEO.

### **Decision**

4. The tribunal carefully considered the evidence and was satisfied that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act should be granted.

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 tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**
6. **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.**

Gillian Buchanan

Signed ...

Date 2 May 2018

Legal Member and Chairperson