

Housing and Property Chamber

First-tier Tribunal for Scotland



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

DETERMINATION by the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 60 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/18/2606

Title no: ABN10974

**House at 46a Charlotte Street, Fraserburgh, Aberdeenshire, Ab43 9JE
("The Property")**

The Parties:-

**Miss Kimberley Ritchie, 46a Charlotte Street, Fraserburgh, Aberdeenshire, Ab43 9JE
("the Tenant")**

**Alexander Pestano Duthie, The Manse, 49 Pitsligo Street, Rosehearty, Fraserburgh,
AB43 7JL.
("the Landlord")**

**Mrs Helen Buchan, 8 Greenbank Grove, Fraserburgh, Aberdeenshire, AB43 7HX
("the Former Landlord")**

**Aberdeenshire Council, Gordon House, Blackhall Road, Inverurie, Aberdeenshire, AB51
2WA
("the Third Party Applicant")**

**Tribunal Members: Gillian Buchanan (Legal Member & Chairperson) and Mark Andrew
(Ordinary Member)**

Background

1. Reference is made to the determination of the tribunal dated 12 February 2019 which determined that the Former Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act" in that he had failed to ensure that the Property met the repairing standard. The works required by the Repairing Standard Enforcement Order ("RSEO") issued by the tribunal on the same date are: -
 - (a) To repair or replace the kitchen window to ensure that the window opens, closes and locks correctly and is in a reasonable state of repair and in proper working order.

- (b) To repair or replace the two windows in the bathroom to ensure that the windows open, close and lock correctly and are in a reasonable state of repair and in proper working order.
 - (c) To repair or replace the electrical socket in the first floor bedroom (being the socket situated behind the door and towards the floor) to ensure that it is in a reasonable state of repair and in proper working order.
 - (d) To repair or replace the cupboard door in the hallway to ensure that it opens and closes correctly and is in a reasonable state of repair and in proper working order.
 - (e) To repair or replace the loose light switch in the main hallway (being the light switch situated to the right of the cupboard immediately opposite the main entrance to the Property) to ensure that it is in a reasonable state of repair and in proper working order.
 - (f) (i) To engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the electrical installations of the Property, and thereafter follow the recommendations of that report to ensure that the entire system is safe and in proper working order.
 - (ii) On completion of the works referred to in paragraph (c), (e) and (f)(i) above to provide to the tribunal a copy of the EICR with no items marked as Category 1 or Category 2.
 - (g) To engage a suitably qualified Gas Safe engineer to carry out a Landlord's inspection of the gas hob and oven and gas boiler located in the kitchen of the property and any other gas appliances within the property and to carry out any repairs identified by the engineer as being necessary to ensure the safety of the occupants and safe use of the gas installations and to exhibit a copy of the Gas Safe Certificate provided by the engineer intimating the safety of the installations
 - (h) To repair or replace the smoke detector in the hallway on the first floor of the Property.
 - (i) Repair or replace the exterior front door and frame to ensure that the door is wind and watertight, in a reasonable state of repair and in proper working order and to provide keys to the front door to the Tenant.
 - (j) To carry out any and all making good and decoration associated with the foregoing works.
2. The tribunal ordered that the works specified the RSEO must be carried out within a period of 4 months from the date of service of the RSEO.
 3. On 1 July 2019 the tribunal issued a determination that that the Former Landlord had failed to comply with the RSEO in terms of section 26(1) of the 2006 Act and served notice of the Former Landlord's failure to comply on Aberdeenshire Council in terms of section 26(2) of the 2006 Act. The tribunal also determined that the Former Landlord's failure to comply should be reported to the Police for consideration of prosecution in terms of section 28(1) of the 2006 Act.
 4. On or around 26 January 2021 the Landlord purchased the Property.
 5. By email dated 27 May 2021 the Landlord intimated to the tribunal that the repairs required in terms of the RSEO had been completed.

6. By email dated 22 June 2021, the Landlord forwarded to the tribunal an EICR and a Gas Safety Certificate, both in terms that comply with the RSEO.
7. On 11 August 2021 the Ordinary (Surveyor) Member of the Tribunal, Mr Mark Andrew, carried out an inspection of the Property with Mr Graham Harding, Legal Member. The Ordinary Member of the Tribunal prepared a Re-inspection Report which is attached hereto along with a Schedule of Photographs.
8. The Re-inspection Report disclosed that all works required in terms of the RSEO had been undertaken.

Determination

9. The tribunal, having seen and reviewed the Re-inspection Report, and in light of the Property being in compliance with the Repairing Standard, determined to issue a Certificate of Completion in respect of the Property.
10. The members of the tribunal both agreed this outcome.

Appeal

11. In terms of Section 46 of the Tribunal (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.

G Buchanan

Signed

Date 1 September 2021

Legal Member

