

Housing and Property Chamber

First-tier Tribunal for Scotland



**Statement of Decision of the Housing and Property Chamber of the
First-tier tribunal for Scotland under Section 26 of the Housing
(Scotland) Act 2006**

**Property: South Barbeth Cottage, New Abbey, Dumfries DG2 8DB (“the
Property”/ “the house”)**

Title No: KRK2334 (part)

Chamber Reference: FTS/HPC/RT/19/2313

Parties:

**Mr Scott Wright and Ms Bernadette Ellis, South Barbeth Cottage, New
Abbey, Dumfries DG2 8DB (“the Tenant”)**

**Mr Hope Vere Anderson, Barbeth House, New Abbey, Dumfries DG2 8DB
 (“the Landlord”)**

**Dumfries & Galloway Council, Strategic Housing Services, Council Offices,
Buccleuch Street, Dumfries DG1 2AD (“Third Party Applicant”)**

**Tribunal Members – George Clark (Legal Member/Chairperson) and Donald
Wooley (Ordinary Member/Surveyor)**

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 made by the Tribunal on 1 October 2019,
determined that the Landlord has complied with the Order and that a
Certificate of Completion of Works should be issued. The Tribunal also
decided that the Rent Relief Order made on 16 March 2020 should be
revoked.**

Background

**By application, received by the Tribunal on 25 July 2019, the Third Party
Applicant applied to the Housing and Property Chamber of the First-tier Tribunal
for Scotland for a determination of whether the Landlord had failed to comply**

with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").

The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard.

Following an inspection and hearing held on 1 October 2019, the Tribunal made a Repairing Standard Enforcement Order ("the Order"). The Order required the Landlord to complete the following within a period of five weeks from the date of service of the Order.

- (1) Repair or renew the defective areas of the front timber entrance door and or surrounding timber frame, ensuring that they are in a reasonable state of repair, in proper working order and that the resultant internal damp within the porch is eradicated.
- (2) Sand down and repair delaminating and badly flaking top surface paint/varnish at side entry door and redecorate as necessary, ensuring that it is in a reasonable state of repair and in proper working order.
- (3) Repair or renew badly rotted boiler house door and defective hinge, ensuring that it in a reasonable state of repair and in proper working order.
- (4) Repair or renew the defective rainwater goods at the boiler house, specifically at the joint between the gutter and downpipe ensuring that the fittings are in a reasonable state of repair and in proper working order.
- (5) Obtain an Electrical Installation Condition Report (EICR) from a SELECT, NICEIC or NAPIT registered electrician in respect of the property and undertake any work which is identified in said report to be of Category C1 or C2.
- (6) Establish the source of the water supply to the Property and obtain from Scottish Water, or other suitably qualified contractor, a more detailed report regarding the repair necessary to the water supply as highlighted by Scottish Water in their Leakage Detection Report which accompanied the application. Thereafter all necessary repairs should be completed and duly certified by a suitably qualified contractor or relevant statutory organisation confirming that the supply is in a reasonable state of repair and in proper working order. If it is subsequently established that it is a private water supply, appropriate certification should be exhibited confirming that the supply satisfies "The

The Ordinary Member of the Tribunal reinspected the Property on the afternoon of 28 January 2020. He reported that, since the original inspection, repairs had been completed to the rainwater goods and surrounding rendering at the boiler house, but that the Tenant had stated at the reinspection that it was the Tenant who had carried out the work, not the Landlord. The Ordinary Member reported that none of the other work required by the Order had been carried out.

The Tribunal determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order and that, in terms of Section 26(2) of the 20016 Act, the failure must be reported to the local authority. The Tribunal also decided to make a Rent Relief Order in terms of Section 27 of the Act.

Reinspection

The Tribunal reinspected the Property on the morning of 8 June 2023. The Third Party Applicant was represented by Mr Adam Black. The Landlord was represented by Mr Alan Fox. The Tenant has vacated the Property, and the Tribunal Members were admitted by Mr Chris Cork, who, whilst living in the Property, is carrying out repair works.

The Tribunal noted that the defective areas of the front timber entrance door and surrounding timber frame are now in a reasonable state of repair and that the area of internal damp within the porch was dry when tested with a moisture meter. A new back door has been fitted, and work is under way to carry out the necessary repairs to the boiler house door. As noted at the previous reinspection, the repairs to the rainwater goods at the boiler house have been completed.

The Landlord's representative provided the Tribunal with a copy of an Electrical Installation Condition Report ("EICR") dated 1 June 2023. The overall rating had been "Unsatisfactory", but an estimate was produced in respect of the necessary remedial works, which were due to start on the following week.

The Landlord's representative told the Tribunal that the water supply to the Property is now public.

Hearing

Following the Reinspection, a Hearing was held by means of a telephone conference call on the afternoon of 8 June 2023. The Third Party Applicant was represented again by Mr Black, who confirmed that his enquiries had established that the Property is now served by mains water from the public supply by Scottish Water. The Landlord was not represented at the Hearing.

The Tribunal decided to defer its Decision until the electrical work was carried out and a satisfactory EICR produced, and, on 21 June 2023, Mr Black forwarded to the Tribunal a further EICR, which had been sent to him by the Landlord on

the previous day. The overall rating was "Satisfactory" and there were no C1 or C2 items of disrepair. Evidence of registration of the contractors, Dumfries Electrical Services, with NICEIC was also provided.

Summary of the issues

The issue to be determined was whether the works required by the Repairing Standard Enforcement Order made on 1 October 2019 had been carried out.

Reasons for the decision

The Tribunal was satisfied from its Reinspection and from the documentation provided that the works required by the Repairing Standard Enforcement Order have been carried out.

The decision of the Tribunal was unanimous.

Right of Appeal

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.

G Clark

Signed:

Legal Member/Chair Date: 6 July 2023