

# **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 OF THE HOUSING AND PROPERTY CHAMBER OF THE FIRST-TIER TRIBUNAL FOR SCOTLAND UNDER SECTION 60(5) OF THE HOUSING (SCOTLAND) ACT 2006**

**Chamber Ref: FTS/HP/RP/17/0165**

**Sasine Ref: Ground with Easterknowe House thereon, part of lands and estate of Stobo excepted from subjects referred to and delineated and coloured pink in plan annexed to disposition in favour of Hugh Leopold Seymour and another recorded 4 August 1988 under exception from a larger part of Easterknowe in the Parish of Stobo referred to in disposition in favour of William Jay Ducas and another recorded 12 October 1990**

**Property at West Lodge, Stobo, Peebles, EH45 8NY  
("The Property")**

**The Parties:-**

**Miss Carol McMillan, residing at the Property ('the Tenant')**

**Mr Hugh Seymour, Home Farm House, Stobo, Peebles EH45 8NX ('the Landlord')**

**The Tribunal:**

**Mary-Claire Kelly (Legal Member)**

**Grieg Adams (Ordinary Member)**

### **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 dated 4<sup>th</sup> August 2017 and served on 10<sup>th</sup> August 2017 in respect of the property (hereinafter referred to as "the RSEO") certifies that the Landlord has complied with the terms of the said Repairing Standard Enforcement Order and that a Certificate of Completion should be issued in terms of section 60(5) of the Housing (Scotland) Act 2006.



## Background

1. By application received on 25 April 2017, the Tenant applied to the tribunal 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").
2. A hearing in respect of the application took place on 24th June 2017. At the hearing the tribunal determined that the property failed to meet the repairing standard. An RSEO dated 4<sup>th</sup> August 2017 was issued in respect of the house on 10<sup>th</sup> August 2017. The RSEO specified that the Landlord had failed to comply with his duty under section 14(1)(b) of the Act. The RSEO required the Landlord to carry out the following works within six weeks of the date of the RSEO:

*To repair or replace the picket fence bordering the garden of the property to ensure that it functions as a secure boundary fence to the property.*

3. A re-inspection of the House was carried out by the Ordinary Member of the tribunal on 17th October 2017 following the expiry of the deadline for works to be completed in the RSEO. Whilst certain works had been carried out to the garden fence it was determined that the RSEO had not been complied with as the garden fence was not considered to be in a safe or structurally sound condition despite partial new rails and additional posts.
4. Following various written representations from the Landlord's agents including representations that quotes had been obtained for the complete removal of the existing fence and replacement with a number of options, on 23<sup>rd</sup> February 2018 the tribunal varied the RSEO to extend the period of time allowed for the completion of works required by the RSEO to 1st June 2018.
5. On 6<sup>th</sup> June 2018 the Landlord's Agents emailed the tribunal to confirm that the fence and gate at the property had been replaced.
6. A further re-inspection of the property was carried out by the Ordinary Member on 22<sup>nd</sup> June 2018. The re-inspection of the property disclosed that the original picket fence had been removed and replaced by a new boundary fence. The new



fence was found to be secure. A re-inspection report was issued to parties on 22<sup>nd</sup> July 2018 confirming this.

7. The tribunal was satisfied given the findings of the re-inspection report that the Landlord had complied with the RSEO dated 4<sup>th</sup> August 2017. The tribunal accordingly certifies that the Landlord has complied with the RSEO and that a Certificate of Completion should in these circumstances be issued.

### **Rights 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.**

M-C Kelly

Chair and Legal Member

Date

*3<sup>rd</sup> August 2018*

