

# 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: Housing (Scotland) Act 2006 Section 60**

**Chamber reference number: FTS/HPC/RT/19/2609**

**52C High Street Dunblane, FK15 0AY (“the property”)**

**The Parties:**

**Iain Wilkinson, 10 Baker Street, Stirling FK8 1BJ; Belvoir Stirling, 79  
Barnton Street, Stirling, FK8 1HJ (“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”) relative to the property dated 27 November 2019, determined that the Landlord has complied with the order and that a certificate of completion to that effect should be issued.**

**The Tribunal comprised: -**

**Josephine Bonnar, Legal Member**

**Nick Allan, Ordinary Member**

**Background**

1. By application received on 21 August 2019 the former Tenant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) 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. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the parties on 25 September 2019. They were notified that an inspection and hearing would take place on 8 November 2019. On 5 November 2019, the Landlord's agent lodged a report from Richardson and Starling dated 5 November 2019. No documents or representations were lodged by the former Tenant.
3. The Tribunal inspected the property on 8 November 2019 at 10am. Mr and Mrs Curran of Belvoir Sales and Lettings attended on behalf of the Landlord. On arrival Mr Curran advised the Tribunal that the former Tenant had vacated the property on 18 October 2019 which was now unoccupied. Access was provided by Mr Curran. Thereafter the Tribunal held a hearing at STEP Stirling, Enterprise Park, Stirling. Mr and Mrs Curran attended. There was no attendance by the former Tenant or on her behalf. Following the hearing the Tribunal issued an RSEO. The order required the Landlord to (i) instruct a suitably qualified roofing contractor to investigate the cause of water ingress and dampness within the property, and (ii) to carry out all necessary and recommended remedial work to the roof and gutters to prevent any further water ingress and dampness. The work was to be completed within three months of intimation of the order.
4. As a result of Government restrictions due to the pandemic, the Tribunal was unable to arrange a re-inspection of the property following expiry of the time limit for completion of the work specified in the RSEO. In any event, the Landlord notified the Tribunal on 29 April 2020 that he had been unable to complete the work due to difficulties getting contractors. He requested a variation of the RSEO. On 10 May 2020 the Tribunal granted a variation of the RSEO, extending the time for completion of the work until 7 July 2020.
5. In October and November 2020, the Landlord submitted photographs and other documents and notified the Tribunal that the work was now complete. On 1 December 2020 he submitted a report from Dunblane Roofing and Building Services with a receipt dated 23 November 2020. The report provided the following information about the work carried out at the property: - "1. Remove defective roughcast on gable, replace defective brickwork and sandstone then renew wet cast roughcasting to the gable end. 2. Remove defective slates, zinc and sarking boards. Replace rotten boards, fit breathable membrane and slates then fit lead over flashing to replace inadequate zinc flashing. 3. Replace defective cast iron downpipes with Lindab steel downpipe and hopper system. Replace cast iron ogee gutter with cast iron replacement. 4. Scrape off areas of growth, fungicide and repoint copings". The Landlord also submitted photographs of the roof following completion of the work.
6. As pandemic restrictions were ongoing, the Tribunal scheduled a case management discussion ("CMD") for 15 January 2021, by telephone

conference call. Prior to the CMD the Landlord sent an email which said that the letting agent would participate in the CMD on his behalf. However, there was no attendance at the CMD. A further CMD was arranged for 16 February 2021. Due to an administrative oversight the details of this CMD were not sent to the Landlord.

7. On 7 March 2021, the Landlord submitted an invoice from Dunblane Roofing dated 1 February 2021. This related to work carried out to the cupboard in the rear bedroom. The invoice stated that they had checked the water damage in the cupboard, removed defective plaster and shelving, painted, and filled the affected area and re-instated the shelving. The Landlord also submitted a single survey report from a surveyor.
8. A case management discussion (“CMD”) took place on 26 March 2021 by telephone conference call. At the CMD the Tribunal noted that the Landlord had provided evidence that roof repairs have been carried out at the property. A survey report had also been lodged. However, this was a Home Report instructed by the Landlord with a view to marketing the property for sale. It did not provide any information regarding the mould, dampness and water ingress which had affected the living room, front bedroom, and rear bedroom (including the cupboard) at the time of the Tribunal’s inspection on 8 November 2019. As a result, the report did not establish whether the Landlord had complied with the RSEO as this stipulates that the Landlord is to carry out repairs to the roof which prevent further water ingress and dampness. The Landlord advised the Tribunal that he could arrange to instruct the surveyor to inspect the property again and provide evidence of compliance with the RSEO. He indicated that he was willing to arrange this so that the question of compliance could be determined without a further inspection by the Tribunal.
9. At the conclusion of the CMD the Tribunal determined that a re-inspection of the property was required but noted that the Landlord might submit further evidence of compliance with the RSEO.
10. On 14 April 2021, the Landlord sent an email to the Tribunal with an email from his letting agent and photographs of damp meter readings being taken. In the email he stated that the email from the letting agent contains the “findings/views” of a surveyor indicating that the property was clean and dry except for the gable wall which was still drying out. The email from the letting agent referred to the photographs and referred to a couple “red lights” on the gable wall. The Landlord did not submit a report from the surveyor in relation to the photographs.
11. On 24 and 25 May 2021, the Landlord was advised that the information provided was not sufficient to enable the Tribunal to make a decision on

compliance with the RSEO and that a re-inspection would take place on 7 June 2021, at 11.30am.

12. The Tribunal re-inspected the property on 7 June 2021, at 11.30am. The Landlord provided access. The property was unfurnished at the time of inspection and appeared to be unoccupied. The Tribunal noted that the following: - Saturated gable wall in living room with damp meter reading of 999; damp meter reading of 899 on front bedroom wall around the window; low readings indicative of damp issues having been resolved in the rear bedroom and rear bedroom cupboard. Following the re-inspection, the Tribunal issued a report to the Landlord. Following receipt of the report, the Landlord advised that he had arranged for the contractor to return to the property to investigate the reason for the continuing dampness at the property. He asked for an extension of time to investigate and carry out further remedial work.
13. The Tribunal determined that the RSEO should be varied by extending the time for completion of the work until 30 September 2021
14. The Landlord was notified that the Tribunal would re-inspect the property on 5 November 2021. The letting agent provided access. The Tribunal noted that the living room was completely dry with no evidence of dampness and damp meter readings taken were within normal levels. However, they noted continuing significant dampness issues round the front bedroom window with high (995) meter readings. A report on the re-inspection was issued to the Landlord. In response he submitted further documents regarding repairs which had been carried out and photographs. He requested a re-inspection. A re-inspection was arranged for 1 February 2022. This was cancelled at the request of the Landlord who said that all issues had not been resolved. A further re-inspection was arranged for 14 April 2022. This was cancelled by the Tribunal for COVID 19 reasons. It was re-arranged for 17 May 2022 at 10.30 am.

### **The re-inspection**

15. The Tribunal conducted a re-inspection of the property on 17 May 2022 at 10.30am. Access was provided by the letting agent, Ms Smith. The re-inspection was restricted to the front bedroom area as the previous re-inspections had established that the dampness/water ingress issues in both the living room and rear bedroom had been successfully addressed. The Tribunal noted the absence of any evidence of dampness or water ingress around the window opening in the front bedroom or on the front elevation wall. Low Damp meter readings obtained at these locations were of no concern to the Tribunal. A copy of the re-inspection report accompanies the decision.

## Reasons for decision

16. From the information and documents provided by the Landlord, roof repair work was carried out in November 2020, some nine months after the original date specified in the RSEO. However, the Tribunal had been unable to inspect due to the pandemic which had also affected the availability of contractors to carry out the work. When the Tribunal re-inspected the property in June 2021, it appeared that this repair work had successfully addressed the dampness and water ingress which affected the rear of the property. However, high levels of dampness still affected the front bedroom and living room. The Tribunal granted a variation of the RSEO, and the Landlord then provided information regarding further work carried out to the roof at the front of the building. When the Tribunal re-inspected the property in November 2021, they were satisfied that this work had successfully addressed the dampness affecting the living room. However, the front bedroom still had unacceptably high damp meter readings. A further re-inspection was arranged for 1 February 2022. This was cancelled at the request of the Landlord. When the Tribunal re-inspected the property on 17 May 2022, there was no evidence of dampness in the front bedroom and damp meter readings were within acceptable levels.
17. Having considered the documents lodged by the Landlord, and the condition of the property at re-inspection, the Tribunal is satisfied that the Landlord has now complied with the RSEO.

## Right of Appeal.

**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.**

In terms of Section 63 of the Act, 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.

Josephine Bonnar, Legal Member:

26 May 2022