

# 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 25(1)**

**Chamber reference number: FTS/HPC/RP/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 Repairing Standard Enforcement Order (“RSEO”) relative to the property dated 27 November 2019 should be varied in terms of Section 25(1) of the Act, determined that the RSEO should be varied by extending the time for completion of the work until 30 September 2021.**

**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 First-tier Tribunal for Scotland served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the parties on 25 September 2019. The parties were notified that an inspection would take place on 8 November 2019 at 10am and that a hearing would take place on 8 November 2019 at 11.30am at STEP Stirling, Stirling Enterprise Park, John Player Building, Stirling. 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. A case management discussion (“CMD”) took place on 26 March 2021 by telephone conference call. Prior to the CMD the Landlord submitted a report from Dunblane Roofing and Building Services which provided details of work carried out at the property, photographs of the roof following the work and a receipted invoice from Dunblane Roofing and Building Services. A single survey report was also submitted together with an invoice from Dunblane roofing for replastering and painting a bedroom cupboard.
5. 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 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.

6. 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.
7. 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 is clean and dry except for the gable wall which is still drying out. The email from the letting agent referred to the photographs and mentioned a couple “red lights” on the gable wall. The Landlord did not submit a report from the surveyor in relation to the photographs.
8. On 24 and 25 May 2021, the Landlord was advised that the information provided was not sufficient for 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.

### **The re-inspection.**

9. 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.

### **Reasons for decision**

10. From the information provided by the Landlord, the roof repair work was completed in December 2020, some nine months after the date specified

in the RSEO. However, the Tribunal has been unable to inspect due to the pandemic. This also affected the availability of contractors to carry out repair work. The Tribunal notes that the Landlord thought that the repair work which was carried out had addressed all water ingress and that the dampness affecting the property had resolved. Following the re-inspection, the Landlord advised the Tribunal that it is accepted that further investigation and repairs are required, and he requested additional time to do this. In the meantime, the Tribunal notes that the property is unfurnished and unoccupied.

11. In the circumstances, the Tribunal is satisfied that additional time should be allowed for the work to be carried out and that the RSEO should be varied by extending the time for completion of the work until 30 September 2021.

## **Decision**

12. The Tribunal determined that the RSEO should be varied, and the time allowed for completion of the work should be extended to 30 September 2021.

## **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.

Signed.....J Bonnar.....

25 June 2021