

# Housing and Property Chamber

## First-tier Tribunal for Scotland



**Variation of RSEO: Section 25 and paragraph 6 of Schedule 2 of the Housing (Scotland) Act 2006 ("the Act")**

**Chamber Ref: PRHP/RP/14/0204**

**THE PROPERTY:**

**TITLE NUMBER: ANG72553**

**3 Speckled Wood Court, Dundee DD4 0LY**

**THE PARTIES:-**

**Miss Gillian Hoskins, residing at the Property, per Gail Cameron, Dundee North Law Centre, 101 Whitfield Drive, Dundee DD4 0DX ("the applicant and former tenant tenant")**

**and**

**Mr Stephen Ian Greig sometime of 1 Balgove Road, Gauldry, DD6 8SH, ("the landlord") successor in title to Ms Andrea Dempster, per Lindsays, Caledonian Exchange, 19 A Canning Street, Edinburgh EH3 8HE, ("the former landlord")**

**THE TRIBUNAL:**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (formerly the Private Rented Housing Committee (PRHC):**

**David M Preston (Legal Member) Angus Anderson, Surveyor (Ordinary Member) and John Blackwood (Ordinary Member)**

**The First-tier tribunal for Scotland (Housing and Property Chamber) ("the tribunal") having determined that the Repairing Standard Enforcement Order ("RSEO") relative to the property dated 26 November 2014 should be varied, it is hereby varied with effect from the date of service of this Notice in the following respect:-**

1. The period allowed for the completion of the work required by the order is extended for a further 6 weeks from the date of service of this Notice of Variation.

Section 25(3) of the Act does not apply in this case.

**A landlord or tenant 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.

D Preston

..... Chairman

27 November 2017

# Housing and Property Chamber

## First-tier Tribunal for Scotland



**Statement of Reasons for Variation of RSEO: Section 25 and paragraph 6 of Schedule 2 of the Housing (Scotland) Act 2006 (“the Act”)**

**Chamber Ref: PRHP/RP/14/0204**

**THE PROPERTY:**

**TITLE NUMBER: ANG72553**

**3 Speckled Wood Court, Dundee DD4 0LY**

**THE PARTIES:-**

**Miss Gillian Hoskins, residing at the Property, per Gail Cameron, Dundee North Law Centre, 101 Whitfield Drive, Dundee DD4 0DX (“the applicant and former tenant tenant”)**

**and**

**Mr Stephen Ian Greig sometime of 1 Balgove Road, Gauldry, DD6 8SH, (“the landlord”), successor in title to Ms Andrea Dempster, per Lindsays, Caledonian Exchange, 19 A Canning Street, Edinburgh EH3 8HE, (“the former landlord”)**

**Decision:**

**The tribunal determined to vary the Repairing Standard Enforcement Order (RSEO) dated 26 November 2014 by extending the time within which the Works specified therein for a period of six weeks from the date of issue of this Variation.**

**THE TRIBUNAL:**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (formerly the Private Rented Housing Committee (PRHC):**

**David M Preston (Legal Member) Angus Anderson, Surveyor (Ordinary Member) and John Blackwood (Ordinary Member)**

**Reasons for Decision:**

1. On 28 August 2017 the surveyor member of the tribunal carried out a re-inspection of the property at the request of the landlord to ascertain whether the works required by the RSEO had been completed. Following the re-inspection, he prepared a report dated 1 October 2017, a copy of which is attached hereto.

2. The report observed that while elements of the work had been carried out there were some requirements which had not been completed.
  - a. In particular:
    - i. The extractor fan in the kitchen had been removed but not replaced;
    - ii. There was an new electric heater in the bedroom which the landlord advised was due to be installed in the entrance hall; and
    - iii. No satisfactory Electrical Installation Condition Report (EICR) had been produced to the tribunal.
3. A copy of the report was sent to the landlord for his information on 5 October 2017 to allow time for him to carry out the outstanding works.
4. As at the date of this Variation there has been no report or evidence from the landlord that the works have been completed and no EICR has been submitted.
5. The tribunal was mindful of the fact that the landlord had become the proprietor of the property on 25 November 2016 by which time the Notice of Failure dated 13 September 2015 had been in place for over a year. The Notice of Failure had been served on the landlord's predecessor in title to the property. The landlord told the surveyor member at the re-inspection that although he had been told about the RSEO at the time of his purchase he had not been advised of its significance or the consequences of failure to comply. Shortly before the re-inspection, he had received more details about it from the tribunal office.
6. The tribunal has ascertained that the RSEO was duly recorded in the General Register of Sasines on 10 February 2015. When the landlord purchased the property from the former landlord the title was entered on the Land Register as a first registration. Notwithstanding the presence of the RSEO on the Register of Sasines it had, *per incuriam*, not been carried forward and entered into the Burdens Section of the Title Sheet for the property. The tribunal was satisfied that the routine property search carried out as part of the purchase transaction would have disclosed that the RSEO had been so recorded. The tribunal was further satisfied that the landlord had been aware of the existence of the RSEO and its terms, either personally or through his agents and it was his obligation to ensure that the terms of the RSEO were implemented.
7. The landlord told the surveyor member that he intends to sell the property when completed and does not intend to let it himself. The tribunal notes that the landlord is not registered for the property in the Register of Landlords for Scotland. Notwithstanding these intentions, the RSEO remains registered against the title and cannot be discharged until the tribunal is satisfied that the required works have been undertaken. Any proprietor of the property would be bound to implement the works and obtain a discharge of the RSEO before seeking to rent out the property, failing which such a proprietor may be guilty of a criminal offence.
8. The tribunal determined in all the circumstances and having regard to the overriding objective as defined in Regulation 3 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2016 that a further

period be allowed to the landlord to enable him to complete the requirements of the RSEO and considered that a period of six weeks would be reasonable in view of the comparatively minimal nature of the outstanding works.

Section 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

**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.**

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.

D Preston

... Chairman

27 November 2017

# Housing and Property Chamber First-tier Tribunal for Scotland



**Housing (Scotland) Act 2006: Re-inspection Report**

**Property: 3 Speckled Wood Court, Dunbar Park, Dundee DD4 0LY**

**Chamber Reference : PRHP/RP/14/0204**

**Re-inspection Date: 28/08/2017 - 11.30am**

**Weather conditions: Warm, dry and sunny, with mainly showery conditions over the preceding seven days.**

**In attendance: Mr Stephen Greig, new owner.**

**Tribunal Member: Angus Anderson**

This is the Re-inspection Report dated 1 October 2017 referred to in the foregoing Statement of Reasons for Variation.

**D Preston**



**Front Elevation.**

## **Repairing Standard Enforcement Order (RSEO)**

### **Works required by the RSEO:**

1. To replace the extractor fans in the kitchen and bathroom.
2. To repair or replace the windows throughout to ensure that they are fully functional by opening, closing and locking.
3. To fit adequate draft exclusion measures to doors and windows throughout.
4. To install adequate trickle vents in the windows throughout.
5. To install an adequate heating system throughout.
6. To obtain and lodge with the Private Rented Housing Panel a Periodic Inspection Report to certify that the electrical wiring and systems throughout are satisfactory.

### **Works in the RSEO undertaken:**

1. The extractor fan in the kitchen has been removed but not replaced. The fan in the bathroom has been replaced and was found to be in working order.
2. All of the windows throughout the flat have been replaced and were found to be fully functional in terms of opening, closing and locking.
3. The replacement windows were found to have adequate draft exclusion measures. The front door (the flat has a single entrance door) has also been replaced and had adequate draft exclusion measures.
4. The replacement windows were found to have adequate trickle vents.
5. New electric heaters have been installed in the lounge, bedroom and bathroom. A new electric heater was present in the bedroom, Mr Greig advised that this was intended for installation in the entrance hall. There was no fixed heating present in the kitchen.
6. An Electrical Report was not provided to the Tribunal prior to or during the inspection.

### **Observations/comment:**

The property appeared to be unoccupied. In addition to the works required by the RSEO, the new owner has replaced the kitchen and bathroom fittings, addressed a leak entering the kitchen from the flat above and carried out redecoration works.

This report will be distributed to the parties and their representatives for their comment. The report and comments received will be referred to the Tribunal for consideration and further action.

**Photographs were taken on the day of inspection and are attached.**

Angus Anderson, MRICS; Date of report: 01/10/2017.

# Housing and Property Chamber First-tier Tribunal for Scotland



Housing (Scotland) Act 2006: Re-Inspection

Schedule of Photographs

3 Speckled Wood Court, Dunbar Park, Dundee DD1 0LY

Chamber Reference : PRHP/RP/14/0204

Inspection Date: 28/09/2017



Photograph 1 Front Elevation - Front windows and door replaced.





Photograph 2 Lounge - Window replaced.



Photograph 3 Lounge - New heater.



**Photograph 4 Kitchen - New fittings. Extractor fan removed.**



**Photograph 5 Bathroom - new fittings.**



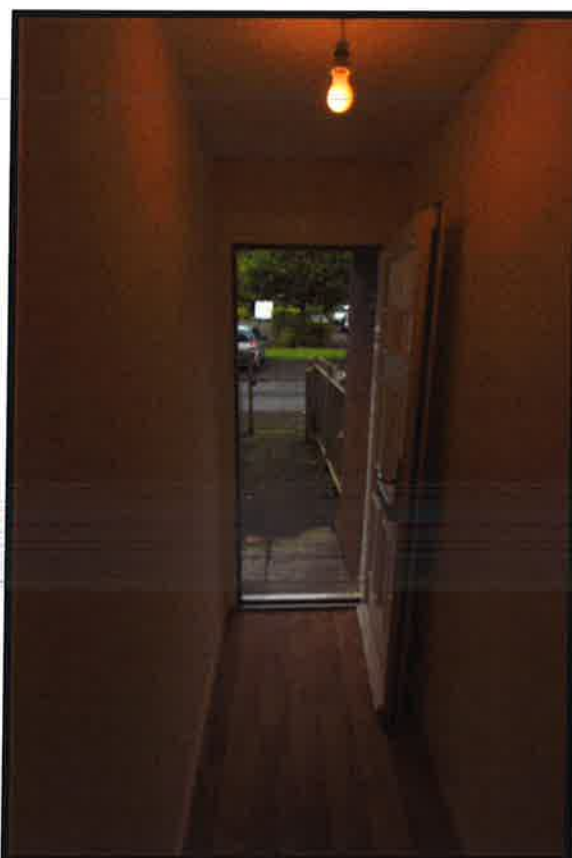
Photograph 6 Bathroom - new extractor fan and window.



Photograph 7 Bedroom - New heater and window.



Photograph 8 Electrical switchgear.



Photograph 9 Entrance hall - New front door.