

# Housing and Property Chamber First-tier Tribunal for Scotland



**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Variation of Repairing Standard Enforcement Order (“RSEO”) under section 25(1) of the Housing (Scotland) Act 2006 (“the 2006 Act”)**

**Chamber Ref: FTS/HPC/RP/18/0603**

**Property at Beaufort, Culbokie, Dingwall, IV7 8JH  
 (“The Property”)**

**The Parties:-**

Mr Callum Child, formerly residing at Beaufort, Culbokie, Dingwall, IV7 8JH (“the former Tenant”)

Mr Kevin Maggs, residing at Timberlee, Coulhill Road, Alness, IV17 0QT (“the Landlord”)

**The Tribunal comprised:-**

Mrs Ruth O’Hare - Legal Member  
Mr Mark Andrew - Ordinary Member

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having determined on 7 May 2019 that the RSEO relative to the Property dated 27<sup>th</sup> July 2018 should be varied, the said RSEO is hereby varied with effect from the date of service of this Notice in the following respects:-

**(a) To extend the period allowed for the completion of the work required by the order by a further six months from the date of service of this notice.**

**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.

**Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.**

In witness whereof these presents type written on this and the preceding page(s) are executed by Ruth O'Hare, Chairperson of the Tribunal at Aberdeen on 7 May 2019 before this witness:-

R Johnstone

R O'Hare

— witness

\_\_\_\_\_ chairperson

ROBERT JOHNSTON, 2 MILL O' FOREST  
GROVE, STONEHAVEN

# Housing and Property Chamber First-tier Tribunal for Scotland



## First-tier Tribunal for Scotland (Housing and Property Chamber)

### Statement of Decision under section 25(1)(a) of the Housing (Scotland) Act 2006 ("the 2006 Act")

Chamber Ref: FTS/HPC/RP/18/0603

Property at Beaufort, Culbokie, Dingwall, IV7 8JH  
("The Property")

#### The Parties:-

Mr Callum Child, formerly residing at Beaufort, Culbokie, Dingwall, IV7 8JH ("the former Tenant")

Mr Kevin Maggs, residing at Timberlee, Coulhill Road, Aness, IV17 0QT ("the Landlord")

#### The Tribunal comprised:-

Mrs Ruth O'Hare - Legal Member  
Mr Mark Andrew - Ordinary Member

#### Decision

The Tribunal having made such enquiries as it saw fit for the purpose of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, determined that the RSEO should be varied so as to give the Landlord a further six months to complete the works required all in terms of Section 25(1) of the Housing (Scotland) Act 2006.

#### Background

1. Reference is made to the decision of the Tribunal dated 27<sup>th</sup> July 2018 which determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act in that he had failed to ensure the Property met the Repairing Standard. The Tribunal therefore imposed a Repairing Standard Enforcement Order ("RSEO"). The works required by the RSEO were:-

wall plaster. The Landlord advised that he had been unable to carry out the work due to financial and time pressures.

4. The re-inspection report is attached herewith. It was circulated to the Landlord for comment however no response was received. Having regard to the findings of the re-inspection the Tribunal considered it had sufficient information to make a determination without the requirement for a hearing.

### **Reasons for the decision**

5. Whilst the works required by the RSEO were still outstanding, the Tribunal was conscious that the works were significant and accepted the Landlord's submission that the delay in completion was a result of financial and time pressures. The Tribunal noted that the property was currently uninhabitable and that the Landlord had no intention of re-letting. The Tribunal would however remind the Landlord that re-letting the property whilst the RSEO remains in place is a criminal offence.
6. Accordingly the Tribunal was satisfied that efforts had been undertaken by the Landlord to make a start on some of the works and that it would be reasonable to allow a further period of time for the works to be completed. The Tribunal therefore determined to vary the RSEO to extend the period for completion by a further six months.
7. The Tribunal was aware from previous discussions that the Landlord may intend on selling the Property at some point in future. If that is the case the Tribunal would ask that the Landlord provide details of any sale in order that the Tribunal can consider whether this impacts on its determination of the application.
8. The decision of the Tribunal was unanimous.

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**First-tier Tribunal for Scotland (Housing and Property Chamber)**

## RE-INSPECTION REPORT



**PROPERTY:** Beaufort, Culbokie, Dingwall, IV7 8JH

**HPC REF No:** FTS/HPC/RP/18/0603

**SURVEYOR:** M H T Andrew FRICS

**IN ATTENDANCE:** Kevin Maggs (Former Landlord) and clerk

**WEATHER:** Overcast, raining and cold

**ACCESS:** via Kevin Maggs

RSEO: 27<sup>th</sup> July 2018

the Tribunal now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Tribunal requires the landlord to:-

- (a) Replace the two external doors to the rear of the property and ensure these are wind and watertight;
- (b) Instruct a qualified electrician to inspect the electrical installations and carry out such works as are necessary to ensure they are in a reasonable state of repair and safe working order and produce a clear electrical installation condition report thereafter;
- (c) Apply draft proofing strips to all opening casement windows;
- (d) Repair the cracked window pane in the lounge to the north east of the property;
- (e) Repair or replace the flat roof to ensure it is watertight;
- (f) Carry out such repairs as are necessary to the slate roofs each side of the flat roof and over the lounge to ensure they are watertight;
- (g) Repair and cap the south west chimney to prevent water ingress;
- (h) Carry out repointing works to, and cap the north east gable chimney;
- (i) In the downstairs bedroom, remove the affected plaster surrounding the fireplace and remove all debris from behind to prevent water ingress;
- (j) Instruct a suitably qualified engineer to inspect the boiler and heating system and carry out such works as are necessary to ensure it is in proper working order and produce a service report thereafter; and
- (k) Carry out any such works to make good decoration following the works at (a) to (j).

The Tribunal order that the works specified in this Order must be carried out and completed within the period of six months from the date of service of this Notice.

**WORKS IN RSEO UNDERTAKEN:**

- i) The ceiling below the flat roof (e) has been removed which confirms that the flat roof is leaking all along the front and sides.

- ii) It appears that the slate roof above the lounge has been carried out in accordance with item (f) but not in regard to the main roofs each side of the flat roof.
- iii) The damp plaster in item (i) above has been stripped off but not replaced.

**RECOMMENDATION:**

None of the issues detailed in the RSEO has been completed. The property is now unlettable due to missing ceilings and wall plaster.

Mr Maggs has had insufficient time and money to carry out the work and an extension of the period of time to carry out the work until the end of September should be considered by the Tribunal.

Ordinary Member (Surveyor) M H T Andrew FRICS

Housing and Property Chamber

Date: 8<sup>th</sup> April 2019

Schedule of photographs of Beaufort, Culbokie, Dingwall, IV7 8JH



External rear door in Living room – unchanged



External rear door from kitchen corridor – unchanged but ceiling and wall stripped back and showing damp ingress



Schedule of photographs of Beaufort, Culbokie, Dingwall, IV7 8JH



Flat roof and part external wall above middle bedroom showing water ingress to whole roof.



Ground floor bedroom gable wall stripped. Damp from chimney above not repaired.