

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 25(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RT/19/2149

Title no: BNF5872

1 Institution Street, Macduff, Aberdeenshire, AB44 1UT ('The Property')

The Parties:-

Graham Earle and Adele Earle residing at 3 Tannery Street, Banff, Aberdeenshire, AB45 1ER ('the Landlord').

Aberdeenshire Council, Gordon House, Blackhall Road, Inverurie, AB51 3WA ('Third Party')

Mark Lee and Ruth Lee residing at 1 Institution Street, Macduff, Aberdeenshire, AB44 1UT ('the former Tenants').

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Angus Anderson (Ordinary Member).

#### Background

1. The Tribunal issued a Repairing Standard Enforcement Order ('RSEO') in respect of the Property which required the Landlord to:-

*'1. Carry out such repairs as are necessary to render the electrical installation in a reasonable state of repair and exhibit a valid and compliant EICR Certificate.*

*2. Install:*

*2.1 One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.*

*2.2 One functioning smoke alarm in every circulation space, such as hallways and landings.*

*2.3 One heat alarm in every kitchen and*

*2.4 All alarms should be interlinked and the installation should comply with the regulations.*

3. *Replace the carbon monoxide alarm in compliance with the regulations.*

4. *Repair or replace the front door to render it in a reasonable state of repair and proper working order.*
5. *Reinstate and repair or replace the hall carpet to render it in a reasonable state of repair.*
6. *Resolve the source of damp penetration to the Property, (including the walls in the sitting room, gas meter cupboard, lower hall, upper bedrooms, bathroom and landing) and carry out such repairs as necessary to prevent further damp ingress followed by remedial works to damp-damaged finishes and decorations.*
7. *Repair or replace the gas meter cupboard door to render it in proper working order.*
8. *Repair or replace the defective floor in the bedroom next to the sitting room to render it in a reasonable state of repair.*
9. *Repair the tiles around the bath.*
10. *Repair or replace the back door to render it in a reasonable state of repair and proper working order.*
11. *Repair or replace the cupboard door in the first floor bedroom right to render it in a reasonable state of repair and proper working order.*
12. *Repair or replace the door of the landing cupboard to render it in a reasonable state of repair and proper working order.*
13. *Repair or replace the door of the external store to render it in a reasonable state of repair and proper working order.'*

2. The Tribunal ordered that the works specified in the RSEO were to be carried out and completed by 15<sup>th</sup> January 2020.

3. On 29<sup>th</sup> January 2020 the Ordinary Member of the Tribunal carried out an inspection of the Property for the purpose of ascertaining whether the repairs required by the RSEO had been completed. The reinspection report and relative photographs taken at the reinspection are annexed and executed as relative hereto.

4. The Tribunal Administration sent the parties a copy of the reinspection Report.

The Third party replied to the Tribunal Administration by email dated 19<sup>th</sup> February 2020 advising that they agreed with the reinspection report and they did not wish a further hearing to be held.

The Tenants replied to the Tribunal Administration by email dated 20<sup>th</sup> February 2020 advising that they agreed with the terms of the reinspection report and asked that the rent be reduced.

The Landlord replied to the Tribunal Administration by email dated 16<sup>th</sup> March 2020 advising that additional works had been carried out. He advised that the delay in

carrying out the works was due to difficulties in obtaining access. He requested that a further inspection be carried out.

5. The Tenants sent an email to the Tribunal Administration dated 16<sup>th</sup> March 2020 advising that they had vacated the Property. As the Tenants have vacated the Property they are no longer parties to the case and it is not competent for the Tribunal to grant a Rent Relief Order.

6. Due to the Coronavirus the Tribunal Administration Centre has been closed and is scheduled to be reopened on 28<sup>th</sup> May 2020. The Tribunal will be unable to schedule a reinspection of the Property or a further hearing until after 28<sup>th</sup> May 2020.

## **7. Decision and Reasons**

In the whole circumstances the Tribunal consider it reasonable to vary the RSEO to allow the Landlord additional time to complete the required works in terms of section 25(1) of the Housing (Scotland) Act 2006 which authorises the Tribunal to vary a RSEO in such manner as they consider reasonable.

Accordingly the Tribunal determined that the RSEO would be varied as follows:

‘The date for completion of the works required in terms the RSEO is varied to 28<sup>th</sup> May 2020.’

8. The decision of the Tribunal was unanimous.

## **9. Appeals**

**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.**

J Taylor

Signed.....  
Chairperson

..... Date 17 April 2020