

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Variation of RSEO: Housing (Scotland) Act 2006 Section 25

Chamber Ref: PRHP/RT/16/0252

Sasines Description: Subjects described in the Notice of Title of Louise Mary Cumming Baldavie Banff to a one half pro indiviso share recorded in the General Register of Sasines for the County of Banff on 9 October 2008 and the Disposition by John Barclay to Robert Cumming and Mary Margaret Jane Robertson or Cumming, recorded GRS (Banff), 23 May 1969.

Re: Little Blairshinnoch Farmhouse, Boyndie, Banff, AB45 3AR ("the property")

The Parties:-

DOCTOR SUZANNE WARREN, formerly residing at Little Blairshinnoch Farmhouse, Boyndie, Banff, AB45 3AR ("the former Tenant")

MRS MARY CUMMING and MISS LOUISE CUMMING, East Baldavie Farm, Banff, AB45 2EB ("the Landlords")

ABERDEENSHIRE COUNCIL, Gordon House, Blackhall Road, Inverurie, AB51 3WA ("the Third Party Applicant")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal") having determined on 16 May 2017 that the Repairing Standard Enforcement Order relative to the property served on 24 October 2016 should be varied, the said Repairing Standard Enforcement Order is hereby varied with effect from the date of service of this Notice in the following respects:-

1. The period allowed for the completion of the work required by the Order is extended for a further 3 months.

Sub-section 25(3) of the Housing (Scotland) Act 2006 does 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.

In witness whereof these presents typewritten on this and the preceding page are executed by **Graham Harding, Solicitor, 17-21 George Street, Perth, PH1 5JY (Chairperson)** of the Tribunal at Perth on 2 June 2017 before this witness:-

L Graham

witness

G Harding

Chairperson

Lesley Graham

name in full

17-21 George Street

address

Perth, PH1 5JY

Housing and Property Chamber

First-tier Tribunal for Scotland



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

DETERMINATION: Statement relative to variation of Repairing Standards Enforcement Order under Section 25 (1) (a) of the Housing (Scotland) Act 2006 ("The Act")

Chamber Ref: PRHP/RT/16/0252

Sasines Description: Subjects described in the Notice of Title of Louise Mary Cumming Baldavie Banff to a one half pro indiviso share recorded in the General Register of Sasines for the County of Banff on 9 October 2008 and the Disposition by John Barclay to Robert Cumming and Mary Margaret Jane Robertson or Cumming, recorded GRS (Banff), 23 May 1969.

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MRS MARY CUMMING and MISS LOUISE CUMMING, East Baldavie Farm, Banff, AB45 2EB
("the Landlords")

ABERDEENSHIRE COUNCIL, Gordon House, Blackhall Road, Inverurie, AB51 3WA represented by **MS JULIA LEONARD**
("the Third Party Applicant")

DECISION

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal") determined that the Landlord be allowed further time to complete the outstanding works.

BACKGROUND

1. On 24 October 2016 the Private Rented Housing Committee made a Repairing Standard Enforcement Order (RSEO) in respect of the property. The members of the committee were Graham Harding, Solicitor Chairman and Angus Anderson, Surveyor Member.
2. The Tenancy of the house was lawfully terminated on 28 February 2017.

3. On 01 December 2016, the Housing and Property Chamber assumed responsibility for the application. The Members of the Tribunal dealing with the application are Graham Harding, Solicitor, Legal Member and Angus Anderson, Surveyor, Ordinary Member.

4. The RSEO required the Landlords to:-

- (a) Repair or replace all the windows at the property exhibiting signs of decay or defective operating mechanisms, including repairing or replacing external or internal cills and to put the windows in a reasonable state of repair.
- (b) Instruct a Raeburn Guild Engineer to carry out an inspection of the Raeburn Stove in the kitchen of the property to confirm either that it is in proper working order and in reasonable state of repair or to carry out any work recommended by the said engineer.
- (c) Repair the cracks in the front and rear elevation walls and the right hand gable.
- (d) Make good all rainwater goods by repairing or replacing as necessary.
- (e) Repair or replace defective kitchen unit drawers and cupboards.

In view of the nature of the failure to meet the repairing standard as defined in the Act, the Committee determined that the Repairing Standard Enforcement Order required to be complied with by 31 March 2017.

- 5. On 06 April 2017 the Ordinary Member of the tribunal inspected the property and a copy of his Report with relevant photographs is attached.
- 6. The Report discloses that some works required by the RSEO have been completed but that some matters remained outstanding at the time of the inspection.
- 7. Subsequent to the inspection the Landlords provided vouching and information with regards to the timescale for completing the outstanding matters.
- 8. The tribunal noted that the Tenancy had been lawfully terminated and in view of the fact that the Landlords were making progress to complete the outstanding works the tribunal determined that the Repairing Standard Enforcement Order be varied to allow the Landlords a further three months to complete the remaining works.

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 thirty 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.

In witness whereof these presents typewritten on this and the preceding two pages are executed by **Graham Harding, Solicitor, 17-21 George Street, Perth, PH1 5JY (Chairperson)** of the Tribunal at Perth on 2 June 2017 before this witness:-

L Graham

witness

G Harding

Chairperson

Lesley Graham

name in full

17-21 George Street

address

Perth, PH1 5JY

Housing and Property Chamber

First-tier Tribunal for Scotland



Housing (Scotland) Act 2006: Re-inspection Report

Property: Little Blairshinnoch Farmhouse, Boyndie, Banff AB45 3AR

Chamber Reference : PRHP/RT/16/0252

Re-inspection Date: 06/04/2017 - 10.30am

Weather conditions: Dry and mild, with similar conditions over the preceding seven days.

In attendance: Mary Cumming, Joint Landlord

Tribunal Member: Angus Anderson



Front Elevation.

Repairing Standard Enforcement Order (RSEO)

Works required by the RSEO:

- (a) Repair or replace all the windows at the property exhibiting signs of decay or defective operating mechanisms, including repairing or replacing external or internal cills and to put the windows in a reasonable state of repair
- (b) Instruct a Raeburn Guild Engineer to carry out an inspection of the Raeburn stove in the kitchen of the property to confirm either that it is in proper working order and in reasonable state of repair or to carry out any recommended by the said Engineer.
- (c) Repair the cracks in the front and rear elevation walls and the right hand gable.
- (d) Make good all rainwater goods by repairing or replacing as necessary.
- (e) Repairing or replace defective kitchen unit drawers and cupboards.

Works in the RSEO undertaken:

- (a) The existing defective windows remain in place. Internally, wall linings have been stripped out. The landlord advised that replacement windows have been ordered and exhibited a printed copy of her email dated 08/03/2017 confirming this.
- (b) The Raeburn stove in the kitchen has not been repaired. The landlord advised that it was inspected by an engineer from North East Boiler Sales and Services and that replacement parts have been ordered. She exhibited a printed copy of her email dated 10/03/2017 confirming this.
- (c) The cracks in the rear elevation wall and the right hand gable have been repaired. The crack in the front elevation has been raked out in preparation of re-pointing.
- (d) The loose downpipes have been re-fixed. However, there are numerous broken gutter clips, mainly to the main building and the cracked rear gutter has not been replaced. There is a missing stop end and gaps at some guttering joints.
- (e) The defective kitchen unit drawers have been replaced. Magnetic clips have been fitted to the wall cupboards and the doors now close properly.

Observations/comment:

The landlord confirmed that the tenancy had ended on 28/02/2017 and that the tenant returned the keys on 01/03/2017. Shortly before the re-inspection, the tenant had confirmed to the Housing and Property Chamber that she was no longer resident at the property.

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: 07/04/2017.

Housing and Property Chamber First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber)

Re-inspection Report : Housing (Scotland) Act 2006

Schedule of Photographs

Little Blairshinnoch Farmhouse, Boyndie, Banff AB45 3AR

Chamber Reference : PRHP/RT/16/0252

Re-inspection Date: 06/04/2017



Figure 1 Front Elevation



Figure 2 Right hand gable elevation - cracks re-pointed.



Figure 3 Right hand bedroom window - cracks re-pointed.



Figure 4 Front elevation right hand side vertical crack - raked out.



Figure 5 Front elevation left hand gutter - broken gutter clips.



Figure 6 Left left hand chimney - cowls missing.



Figure 7 Front elevation left hand side gutter and downpipe - intact/secure.



Figure 8 Left gable elevation/side addition and kitchen window.



Figure 9 Left hand rear corner and downpipe - downpipe re-clipped.



Figure 10 ~ rear elevation gutter - cracked as before, broken clips evident.



Figure 11- Rear left corner - both cracked areas re-pointed.



Figure 12 Rear left corner - crack re-pointed, downpipe re-clipped. Broken/missing gutter brackets.



Figure 13 Kitchen overview.



Figure 14 Stove and cabinets - new cabinet right hand side of stove.



Figure 15 Wall units



Figure 16 Wall units - catches fitted.



Figure 16 Ground floor bedroom window (typical window) - linings stripped out at ingoes