

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### Variation of the Repairing Standard Enforcement Order Ordered by the First-tier Tribunal for Scotland (Housing and Property Chamber) In terms of Section 25 Housing (Scotland) Act 2006

Chamber Ref: PRHP/RT/16/0359

Title no: DMF4666

112 Queen Street, Dumfries, DG1 2JT ('The Property')

The Parties:-

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant').

Mrs Dawn Vella residing at 35 Weston lane, Southampton, SO19 9GN ('the Landlord').

Miss Samantha Taylor residing formerly at 112 Queen Street, Dumfries, DG1 2JT ('the Tenant').

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

#### NOTICE TO The said Mrs Dawn Vella

The Tribunal in their decision dated 11th July 2017 have determined to vary the Repairing Standard Enforcement Order dated 30<sup>th</sup> January 2017 to allow additional time for completion of the outstanding works.

Consequently the said **Repairing Standard Enforcement Order is VARIED** with effect from the date of service of this Notice to the effect that the period allowed for the completion of the works is extended to 30<sup>th</sup> August 2017.

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 a landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy agreement 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 typewritten on this and the preceding page are subscribed at Irvine on 11<sup>th</sup> July 2017 by Jacqui Taylor, Chairperson of the Tribunal in the presence of the witness KEIRSTEN BYRNE, 65, High Street, Irvine.

**J Taylor**

Signed..... Date 11th July 2017  
Chairperson

 K Bryne.....witness: KEIRSTEN BYRNE, 65, High Street,  
Irvine

# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

Chamber Ref: PRHP/RT/16/0359

Title no: DMF4666

112 Queen Street, Dumfries, DG1 2JT ('The Property')

The Parties:-

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant').

Mrs Dawn Vella residing at 35 Weston lane, Southampton, SO19 9GN ('the Landlord').

Miss Samantha Taylor residing formerly at 112 Queen Street, Dumfries, DG1 2JT ('the Tenant').

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

### Background

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

*'1. Resolve the source of lateral damp penetration to the front and rear basement rooms and repair the dampness, rising damp and damp penetration to render the Property water tight.*

*2. Install the washing machine in the kitchen and properly connect the outflow pipe to the drains.*

*3. Install a fixed heating system in the Property being either high heat retention storage heaters (as recommended by the EPC) or a gas central heating system, sufficient to reasonably heat the Property. '*

2. The Tribunal ordered that the works specified in the RSEO were to be carried out and completed by 1<sup>st</sup> May 2017.

3. On 8<sup>th</sup> May 2017 the Ordinary member of the Tribunal inspected the Property. The Property was vacant. In connection with the required works he found:

3.1 Extensive works had been carried out to the Property to treat the dampness and whilst the levels of dampness found at the inspection were improved there was still evidence of dampness in the Property.

3.2 The washing machine had been relocated to the kitchen but the appliance had still to be connected to the outflow pipe.

3.3 A gas central heating system had been installed in the main rooms, the hallway and the basement area. However the system was not in operation at the inspection and no gas safety certificate was available at the inspection to confirm that the system had been correctly installed. Fixed electric panel radiators had still to be installed in the bathroom and rear kitchen area.

The reinspection report is annexed and executed as relative hereto.

6. Following the reinspection the Landlord sent an email to the Tribunal administration dated 3<sup>rd</sup> July 2017 advising that due to difficult personal circumstances the required works had not been completed. She acknowledged that they could not rent out the Property until the Property has been reinspected.

### **Decision and Reasons**

7. The Tribunal considered the Landlord's representations. They were satisfied that satisfactory progress had been made and determined that an extension to 30<sup>th</sup> August 2017 for completion of the required works to be reasonable as the Property was not tenanted.

8. The Tribunal therefore decided that they would vary the RSEO as stated.

### **Appeals**

**In terms of section 46 of the Tribunals (Scotland) Act 2014, a party 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..... Date 11<sup>th</sup> July 2017  
Chairperson



**Property Re-inspection Report**

**J Taylor**

**112 Queen Street, Dumfries, DG1 2JT**

**Case Reference:** PRHP/RT/16/0359

**Surveyor:** Nick Allan (Ordinary member)

**Date of re-inspection:** 08/05/2017

**Time of re-inspection:** 12 noon

**Weather conditions:** Dry and overcast

**Present:** Nick Allan  
Craig Richards (Landlord's contractor)

**Property status:** Vacant



Requirements of the RSEO: -

- Resolve the source of lateral damp penetration to the front and rear basement rooms and repair the dampness, rising damp and damp penetration to render the Property water tight.
- **The Contractor advised that excavation works along the rear elevation had been undertaken by the landlord, the window assembly sealed, the drain hole in the floor, previously used to drain the waste water from the washing machine, sealed (See Photograph 1 below). It was observed that the door steps into the external kitchen door have been reset to ensure that rainwater flows away from the house and basement area (See Photograph 2 below). It was also noted that the window sill (See Photograph 3 below) had been cleared although it was not evident to the Surveyor Member, or the Contractor, where the rainwater would eventually drain away to.**
- **Improved dampness readings were obtained along the lower sections of the rear elevation using a dual function dampness meter capable of determining levels of moisture below the surface, and deeper within building materials. The readings recorded would suggest that the measures outlined above have been successful. (See Photographs 4 + 5 below)**
- **Meter readings were also obtained once again from the internal wall running perpendicular to the right of the window opening (See Photographs 6 + 7 below). These readings were higher than the ones obtained from the rear elevation and fell within the 22-40% range. They were also concentrated at a height of 4-5ft above the floor level in one small isolated section, and not in the vicinity of any timber. There was no obvious cause for this isolated section of dampness at this location suggesting that this section of wall may still be drying out. Rising damp can also be ruled out.**
- **In terms of the front basement room, the Contractor advised that the following works had been carried out: -**
  - **Externally, the soil levels had been excavated to a sufficient depth to discover a break in the rainwater drainpipe, previously undetected below ground level. This would have been the most likely cause of the saturated stonework and vegetation growth noted externally during the initial inspection, and the cause of the original high damp readings taken internally under the switchgear cupboard, and on the front elevation (See Photograph 8 below). The broken section of downpipe has been replaced;**
  - **The excavation also uncovered a hole in the wall below ground near to the front door steps. Once again, this would have been the**

probable source of dampness noted at the initial inspection. The hole has been sealed and made watertight;

- The sodden earth in the front garden has been removed and replaced by stone chips (See Photograph 9 below);
- The Landlord and the Contractor have undertaken “tanking” work on the interior face of the front elevation and a section of the floor slab.
- Dampness readings were taken internally along the front elevation, and on the wall beneath the switchgear cupboard. Although the meter readings were below those recorded at the initial inspection, they were still higher than normal, falling into the 20-30% range. This would suggest that the counter-dampness measures have in-part worked. Acknowledging that the stonework has been subjected to penetrating dampness for a lengthy period of time and had obviously been saturated, there is now visual evidence that the stonework is beginning to slowly dry out naturally.
- Install the washing machine in the kitchen and properly connect the outflow pipe to the drains.
- It was noted that the washing machine had been relocated to the kitchen and the relevant pipework was in place to properly connect it to the water supply and drainage outlet (See Photograph 10 below). However, it was noted that the washing machine hoses were still to be fitted to the pipework. It was also noted that the washing machine could be powered up.
- Install a fixed heating system in the Property being either high heat retention storage heaters (as recommended by the EPC) or a gas central heating system, sufficient to reasonably heat the Property.
- The Property was installed with a gas central heating system on 26/04/17 by Harness Plumbing and Heating Ltd. Appropriate radiators have been fitted in all the main rooms, the hallway and basement area. There is no radiator in the bathroom, or the rear kitchen area (See Photographs 11 + 12 below). The contractor advised that it is intended to install fixed electric panel heaters in these areas. As the property is now vacant, the central heating system was not in use at the time of the inspection. The Contractor was unaware if a Gas Safety Certificate had been provided to the Landlord.

**Recommendation:** Allow a further period of 1 month for remaining damp areas to hopefully dry out, and for the washing machine hoses to be fitted. Request a Gas Safety certificate. Re-inspect when appropriate.



## **Photograph Schedule**

**112 Queen Street, Dumfries, DG1 2JT**



**Photo 1 – R/B former drain hole**



**Photo 2 – Re-aligned steps and sealed window**



**Photo 3 – External sill and soakaway**



**Photo 4 – Rear wall inner face**





**Photo 5 – Rear wall reading**



**Photo 6 – Right hand wall**



**Photo 7 – Right hand wall reading**



**Photo 8 – R/H front elevation/switchgear wall**



**Photo 9 – Re-surfaced front garden**



**Photo 10 – Re-located washing machine**



**Photo 11 – Installed gas boiler**



**Photo 12 – Recently installed radiator**

Nick Allan FRICS  
Surveyor – Ordinary Member  
First-tier Tribunal (Housing and Property Chamber)  
8<sup>th</sup> May 2017