

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

---



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

**Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 60 of the Housing (Scotland) Act 2006 (“the 2006 Act”) – Certificate of Completion**

**Housing (Scotland) Act 2006 (“the 2006 Act”)**

**Chamber Ref: FTS/HPC/RP/23/1544**

**Miss Sarah Marie Smith, residing at the House (“the Tenant”)**

**Mr Daniel Joseph Falls, 27 Kingsley Court, Uddingston, G71 6QH (“the Landlord”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and Andrew Taylor (Ordinary Member)**

### **DECISION**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), with reference to the Repairing Standard Enforcement Order (“RSEO”) dated 5 October 2023 and, having considered the application by the Landlord for a Certificate of Completion of Works and the outcome of the Tribunal’s subsequent further enquiries in this regard, the Tribunal determined that a Certificate of Completion of Works should be issued in terms of Section 60(4) of the 2006 Act.**

### **Background**

1. By application received on 16 May 2023, the Tenant applied to the Tribunal in terms of Section 22 of the 2006 Act claiming breach of the Repairing Standard by the Landlord in respect of various repair issues affecting the House. The Tenant claimed that there were plumbing issues in the bathroom of the property above the House and in her own

bathroom, that the entire bathroom needed replaced due to water damage, that there was damp and mould, that there was a leak in the kitchen that needed fixed, that she had concerns about the electrics following floodings and had experienced issues with the replacement gas boiler. Supporting documentation was lodged with the application. The Tenant was asked to provide a copy of the tenancy agreement and proof that she had notified the Landlord in writing of the repairs required to the House, which she subsequently lodged.

2. On 13 July 2023, a Legal Member of the Tribunal, acting under delegated powers in terms of Rule 9 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules") issued a Notice of Acceptance of the Application. Notice of Referral to the Tribunal, Inspection and Hearing was issued to the parties on 19 December 2022, requesting that any written representations should be lodged with the Tribunal by 30 August 2023. At the request of the Tenant, the Legal Member subsequently extended the time for written representations to be lodged by both parties until 12 September 2023.
3. Written representations were lodged by the Landlord's agents, Ian C McCarthy, Solicitors dated 29 August 2023 and from the Landlord himself dated 11 September 2023. The Landlord submitted with his representations a Gas Safety Record dated 28 August 2023 and an Electrical Installation Condition Report (EICR) dated 29 August and 1 September 2023. The Tenant also submitted further representations in response by emails dated 27 August and 4 September 2023. The Tenant lodged some photographs of the interior of the House and copies of screenshots of text messages which appeared to be between herself and "Liam" on various dates between July 2021 and April 2023.
4. The Tribunal Members inspected the House on the morning of 26 September 2023 at 10am. The Tenant was present as was her mother, in a supportive capacity.
5. Following the Inspection of the House, the Tribunal held an in-person Hearing at Glasgow Tribunals Centre at 11.45am on 26 September 2023. The Tenant was present and accompanied by a supporter, Ms Danielle King. The Landlord was also present and represented by Ms Jackie White, Solicitor from Ian C McCarthy, Solicitors.
6. Following the Hearing, the Tribunal determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the 2006 Act to ensure that the House meets the Repairing Standard and proceeded to make an RSEO as required by Section 24(1) of the 2006

Act. The RSEO was dated 5 October 2023 and required the Landlord within 6 weeks of the date of the RSEO:-

- (1) To make good the damaged plaster and decoration in the hall and kitchen caused by water penetration from the upstairs flat, said remedial works to include any required treatment to eradicate mould to ensure that the House is in a reasonable state of repair, wind and watertight and in all other respects reasonably fit for human habitation;*
  - (2) To refix the shower head riser to the bathroom wall to ensure that any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order;*
  - (3) Given that the Electrical Installation Condition Report (EICR) dated 29 August 2023 and 1 September 2023 provided by the Landlord states that the electrical installation is "Unsatisfactory" and cites a number of C2 faults that require rectification, to engage the engineer who carried out the testing to rectify those faults and provide detailed written evidence, to the Tribunal and the Tenant, from the engineer that the faults have been rectified and that the condition of the installation is now "Satisfactory", in order to ensure that the installations in the house for the supply of electricity are in a reasonable state of repair and in proper working order; and*
  - (4) Given that the EICR provided by the Landlord also highlights that the provision for fire detection is not in accordance with current standards, to provide and install smoke detection and alarm equipment in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 and the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Order 2019 in order to ensure that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire."*
7. Following the issue of the RSEO, numerous further written representations were received from both parties and further documentation lodged by the Landlord, including a photograph showing the new/repaired shower unit/shower head and an updated EICR dated 28 October 2023 which was in satisfactory terms and also confirmed the installation of a new consumer unit and a smoke alarm upgrade. Ultimately, both parties confirmed that the works required by the RSEO (plus additional works in the bathroom) had been completed to the satisfaction of the Tenant and the Landlord requested that the RSEO be lifted.

8. Having considered the further representations and documentation received from parties, the Tribunal was of the view that a further Hearing was not required on these matters and proceeded to make their decision.
9. The Tribunal considered whether all the works stipulated in the RSEO have been completed and all requirements of the RSEO met.
10. The Tribunal was satisfied that all works stipulated in the RSEO had been carried out and that the Repairing Standard was now met in these respects.

## **Decision**

The Tribunal decided to issue a Certificate of Completion of Works in terms of Section 60(4) of the 2006 Act.

## **Reasons for decision**

1. The Tribunal considered the whole background to this case and the further documentation produced by the Landlord since the RSEO was made, as detailed above. The Tribunal also noted the Tenant's position, stated in her recent written representations, that she was satisfied that all issues in terms of the RSEO had been resolved. Accordingly, the Tribunal determined that all the works required to the House in terms of the RSEO had now been completed and that the Repairing Standard was now met.
2. The Tribunal is accordingly of the view that the Landlord has complied with the RSEO and that it is now appropriate to grant a Certificate of Completion of Works in terms of Section 60(4) of the 2006 Act.
3. The decision of the Tribunal is unanimous.

## **Right of Appeal**

**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.**

**In terms of Section 63 of the Act, 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.**

N Weir

Signed.....  
Nicola Weir, Legal Member of the Tribunal

Date: 15 January 2024