

Housing and Property Chamber First-tier Tribunal for Scotland



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

Certificate of Completion of Work under Section 60 of the Housing (Scotland) Act 2006 as amended ("the Act")

Chamber Ref: FDS/HPC/RP/17/0061

Title No: ANG32479

Ground Floor Right, 81 Dens Road, Dundee, DD3 7HW ("The Property")

The Parties:-

JOHN SMITH, residing at 81 Dens Road, Dundee, DD3 7HW (represented by their agent, Dundee North Law Centre) ("the Tenant")

ASRAR UN-NABI and DAVID WILLIAM ADAMSON as Partners of and Trustees for the Firm of Ace Property Lettings ("the Landlords")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') hereby certifies that the work required by the **Repairing Standard Enforcement Order ("RSEO")** relative to the Property dated 2 May 2017 has been completed. Accordingly, the said RSEO relative to the property has been discharged.

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.

In Witness Whereof these presents type written on this and the preceding page(s) are executed by Ewan Kenneth Miller, legal member of the Tribunal, at Dundee on the 1 December 2017 in the presence of the undernoted witness:-

E Miller

Legal member

_witness

Lindsay Johnston
Secretary
Thorntons Law LLP, Whitehall House
33 Yeaman Shore, Dundee

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006

Chamber Ref: FDS/HPC/RP/17/0061

Ground Floor Right, 81 Dens Road, Dundee, DD3 7HW (“The Property”)

The Parties:-

JOHN SMITH, residing at 81 Dens Road, Dundee, DD3 7HW (represented by their agent, Dundee North Law Centre) (“the Tenant”)

ASRAR UN-NABI and DAVID WILLIAM ADAMSON as Partners of and Trustees for the Firm of Ace Property Lettings (“the Landlords”)

Decision

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’), having made such enquiries as was appropriate for determining whether the Landlords had complied with the Repairing Standard Enforcement Order (“the RSEO”) in relation to the Property concerned and taking account of the subsequent reinspection of the Property, determined that the Landlords had now complied with the terms of the RSEO and resolved to issue a Certificate of Completion in respect of the works required by the RSEO.

Background

1. By way of a Decision dated 2 May 2017, the Tribunal had issued a determination that the Landlords had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The Tribunal had placed an RSEO on the Property also dated 2 May 2017, the RSEO required the Landlords that:-
 - (a) to carry out such works of repair or replacement to the living room and second bedroom windows to ensure they are capable of being opened and closed properly and otherwise are compliant with the repairing standard;
 - (b) to exhibit to the tribunal a clear Electrical Installation Condition Report with no items marked C1 or C2.

(c) to carry out such works of repair or replacement to the bathroom and kitchen ceilings to repair all damage caused by a leak from the flat above.

The RSEO required the Landlords to carry out the works within 8 weeks from the date of service of the RSEO.

3. On 18 July 2017, Geraldine Woolley, Ordinary Member and Surveyor of the original Tribunal carried out a reinspection of the Property. The Ordinary Member reported that whilst the Tenant was not satisfied with the work that had been carried out, generally this appeared to have been carried out to a satisfactory standard. Works to the windows in the living room and second bedroom window had been carried out. In relation to the living room window the catch to the upper light had been repaired but the repair had failed leaving the window not fully sealed and unlikely to be fully wind and watertight. The window in the second bedroom had been replaced and the Tenant confirmed that it functioned satisfactorily.

The RSEO had also required the Landlords to produce a clear EICR. Whilst one was available at the reinspection, there was some dubiety about whether it had been signed by an appropriate SELECT electrician. Following on from the inspection, the Landlords did produce the necessary evidence to show that the EICR was valid. Accordingly the Tribunal was satisfied with this.

The Ordinary Member had reinspected the kitchen and bathroom. The bathroom ceiling had been repaired and redecorated and the kitchen ceiling had also been repaired using a plastic cladding. These works met the terms of the RSEO. It was also noted that the Landlords had carried out further works since the first inspection and had replaced the bath and installed an external vent to the cooker hood. The plastic cladding that had been used in the kitchen had also been applied to the bathroom wall.

The Tribunal (consisting of Mr E K Miller Legal Member and Mrs G Wooley, Ordinary Member) considered matters. Generally the Property had been improved by the Landlords. The only outstanding item was the catch of the living room window which was not functioning particularly well.

During the course of the inspection the Tenant was generally abusive and very difficult. The Ordinary Member had felt more than a little uncomfortable throughout the reinspection at the attitude and demeanour of the Tenant. The Landlords had indicated subsequent to the reinspection that they were having significant difficulties obtaining access to the Property and were suffering abusive behaviour at the hands of the Tenant. Given the general behaviour of the Tenant at the reinspection, the Tribunal was of the view that the Landlords were, on the balance of probabilities, suffering genuine difficulties in dealing with the Tenant and it was difficult to carry out a minor repair such as the window catch.

The reinspection report was circulated to the parties. No response was received from the Tenant. The Tenant's agent indicated that he was having difficulty in obtaining instructions or any form of contact from him.

The Tribunal considered matters. The only outstanding matter was the window catch. This was a relatively minor issue and caused no real detriment to the Property. In light of the Tenant's behaviour the Tribunal was satisfied that the Landlords had carried out all reasonable steps to have the works done and had generally done a good job of this. The failed repair to the window was a *de minimis* issue and on that basis the Tribunal determined that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act would be granted.

Decision

4. The Tribunal's decision was to lift the RSEO and grant a Certificate of Completion discharging the RSEO.
5. The decision of the Tribunal was unanimous.

Right of Appeal

6. 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.

Effect of section 63

7. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

E Miller

Signed

. Chairperson

Date

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