

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: FTS/HPC/RP/17/0177

Land Register Title No: ANG12892

**Property at G/R, 5 Balmore Street, Dundee, DD4 6SX
("The Property")**

The Parties:-

**MS KIMBERLY EDWARDS, G/R, 5 Balmore Street, Dundee, DD4 6SX
("the Tenant")**

**MS NADIA BASHIR, 12 Springhill Gardens, Dundee, DD4 6JF
(represented by Baker Bradley Limited, 211B Albert Street, Dundee, DD4 6QA)
("the Landlord")**

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 5 July 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/

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 are executed by Gillian Coutts Buchanan, Legal Member of the Tribunal, at Dundee on the 30th day of April 2018 in the presence of the undernoted witness:-

Jennifer Lynch

__witness

Gillian Buchanan

Legal member

Jennifer Lynch name in full
THORNTONS LAW LLP
Whitetail House address
33 YEAMAN STONE
DUNDEE
DD1 4BJ



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, Section 60

Chamber Ref: FTS/HPC/RP/17/0177

**Property at G/R, 5 Balmore Street, Dundee, DD4 6SX
("the Property")**

The Parties:-

**MS KIMBERLY EDWARDS, G/R, 5 Balmore Street, Dundee, DD4 6SX
("the Tenant")**

**MS NADIA BASHIR, 12 Springhill Gardens, Dundee, DD4 6JF
(represented by Baker Bradley Limited, 211B Albert Street, Dundee, DD4 6QA)
("the Landlord")**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, and taking account the documentation submitted to the tribunal, determined that the Landlord 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. Reference is made to the determination of the tribunal dated 5 July 2017 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that she had failed to ensure that the Property met the repairing standard. The works required by the RSEO were: -
 - (a) Instruct an RICS registered and qualified building surveyor to carry out a survey and report on the condition of the following: -

Rising damp and/or penetrating damp throughout the Property with particular reference to the hall floor, internal hall walls, external walls at the bedroom and living room. The report should include commentary on recent works carried out in the hall area.
 - (b) Carry out and complete any and all repairs to the property identified in and recommended by the report referred to in paragraph (a) above and provide a copy of the report to the tribunal.

- (c) Engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the entire electrical installation of the Property to include testing of the fire detection equipment.
- (d) Follow the recommendations of the report referred to in paragraph (c) above to ensure that the entire system is safe and in proper working order. Provide a copy of the EICR to the tribunal.

The RSEO gave the Landlord 42 days to carry out the works.

2. On 22 September 2017 the Ordinary (Surveyor) Member of the tribunal, Mr Andrew Taylor, re-inspected the Property on behalf of the tribunal.

The Ordinary (Surveyor) Member noted that some works had been carried out since the original inspection and issuing of the RSEO, namely:-

- (a) Further damp proofing works had been carried out to the hall floor and walls. The extent of these works was not fully apparent. However, damp meter readings were taken at the hall walls and floor and no dampness registered.
- (b) The drip at the incoming pipework had been rectified.
- (c) Decoration had been made good.

The Ordinary (Surveyor) Member noted that other works required in terms of the RSEO remained outstanding namely:-

- (a) Instruct an RICS registered and qualified building surveyor to carry out a survey and report on the condition of the following:-
Rising damp and/or penetrating damp throughout the Property with particular reference to the hall floor, internal hall walls, external walls at the bedroom and living room. The report should include commentary on recent works carried out in the hall area.
 - (b) Carry out and complete any and all repairs to the property identified in and recommended by the report referred to in paragraph (a) above and provide a copy of the report to the tribunal.
 - (c) Engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the entire electrical installation of the Property to include testing of the fire detection equipment.
 - (d) Follow the recommendations of the report referred to in paragraph (c) above to ensure that the entire system is safe and in proper working order. Provide a copy of the EICR to the tribunal.
3. By email dated 10 October 2017 the Landlord's representative, Mr Rizvan Aboobaker, 211a Albert Street, Dundee, DD4 6QA, submitted representations to the tribunal. The Landlord's representations included a Report of Mr Innes Aitken of Innes Aitken Associates dated 10 October 2017 and an Electrical Installation Condition Report dated 30 April 2017 prepared by Fraser Mills, Electrician. The tribunal noted the Report of Mr Aitken, at paragraphs 8.04 and 9.02, indicated that the choked communal downpipe to the rear of the Property should

be cleared/repaired. The tribunal noted that the EICR narrated three category C2 observations.

4. The tribunal, comprising Miss Gillian Buchanan, Legal Member and Chairperson and Mr Andrew Taylor, Ordinary (Surveyor) Member, inspected the Property on the morning of 9 January 2017. Following the inspection of the Property the tribunal held a hearing at Caledonian House, Greenmarket, Dundee, DD1 4QX.
5. The re-inspection revealed:
 - (a) The damp-proofing works in the hall had been satisfactorily completed, the pipework repaired and decoration made good. The Tenant indicated she was happy with the works carried out and had no further comment to make.
 - (b) That with regard to the category C2 observations noted within the EICR dated 30 April 2017, a heat detector in the kitchen had been fitted and the hall socket had been screwed back into position.
 - (c) That the Minor Electrical Installation Works Certificate dated 1 December 2017 confirmed the electrical installations in the Property now to be satisfactory.
 - (d) That with regard to the choked downpipe to the rear of the Property, the Landlord's representatives indicated they would have the required works carried out to clear/repair the downpipe in early course.
6. Subsequent to the inspection and hearing on 9 January 2018 the Landlord's agent Mr Aboobaker, by email dated 13 January 2018, indicated to the Tribunal that work had been carried out and attached to that email photographs including two photographs of a drain with the cover thereof removed.
7. The tribunal considered that substantial works had been done in compliance with the RSEO and as at the inspection and hearing on 9 January 2018 only one item of work remained outstanding, namely the choked downpipe. The tribunal could not be satisfied from the photographs that the choked downpipe had been cleared as required. The tribunal gave an extension of 4 weeks to allow the Landlord (a) to undertake the works required by the Repairing Standard Enforcement Order and (b) to satisfy the tribunal that the required works have been carried out by providing to the Tribunal sufficient evidence to be satisfied that the choked downpipe has been cleared in the form of either an invoice from a suitably qualified contractor detailing the work done or a letter/supplementary report from Mr Innes Aitken of Innes Aitken Associates. The tribunal therefore issued a Notice of a Decision to Vary the RSEO dated 25 January 2018.
8. On 28 March 2018 the Ordinary (Surveyor) Member of the tribunal, Mr Andrew Taylor, re-inspected the Property on behalf of the tribunal. The only outstanding item of work required in terms of the RSEO was to clear the choked downpipe to the rear of the tribunal and to satisfy the tribunal in that regard by producing sufficient evidence thereof. The Landlord's representatives, Mr Bradley and Mr Aboobaker, were present at the re-inspection. The Tenant was neither present nor represented.

The re-inspection revealed that the downpipe to the rear of the property had been repaired and a chokeage in the drain cleared. The Landlord's representatives produced a

copy of an invoice from David Feeney, 20 Heron Rise, Dundee, DD4 9DH dated 16 January 2018 confirming the works had been done and that the drain had been tested.

There are no outstanding works required in terms of the RSEO.

Decision

9. The tribunal carefully considered the evidence and was satisfied that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act should be granted.
10. The decision of the tribunal was unanimous.

Right of Appeal

- 12. 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 tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**
- 13. 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.**

Gillian Buchanan

Signed

Date 30 April 2018

Legal Member and Chairperson