

# **Housing and Property Chamber**

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

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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)**

**Chamber Ref: FTS/HPC/RP/17/0209**

**The Property: 37D, McLelland Drive, Kilmarnock, KA1 1SG**

**The Parties: -**

**Miss Mharie McDonald  
37D McLelland Drive  
Kilmarnock  
KA1 1SG  
("the Tenant")**

**Mr David Colin Alexander Neil  
26 Glasgow Road  
Kilmarnock  
("the Landlord")  
(represented by their agent Lyn-Mar, 20 West George Street,  
Kilmarnock, KA1 1DG)**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), having regard to Re-Inspection carried out by the Ordinary Member, Mr Andrew Taylor on 11<sup>th</sup> January 2018, and all work identified in the Repairing Standard Enforcement Order dated 7<sup>th</sup> September 2017 having been carried out satisfactorily, finds that the Landlord has now complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006) in relation to the house concerned.**

### **Background**

1. By application received on 26<sup>th</sup> May 2017 the Tenant applied to the Housing and Property Chamber for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. By Decision dated 7<sup>th</sup> September 2017 the Tribunal found that the Landlord had failed to comply with the duty imposed by s14(1)(b) of the 2006 Act. A Repairing Standard Enforcement Order ("RSEO") was issued dated 9th August 2017.

### **Reasons for Decision**

On 11<sup>th</sup> January 2018, the Ordinary Member, Mr Andrew Taylor re-inspected the property, all as detailed in Re-inspection Report attached hereto dated 11<sup>th</sup> January 2018. All works required by the RSEO had been carried out and no work was outstanding.

Accordingly, the Tribunal is satisfied that a Certificate of Completion should be issued.

### **Right of Appeal**

3. **A landlord, tenant or third-party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

### **Effect of section 63**

4. 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.

**L Dowdalls**

Signed

Date

6th February 2018

Chairperson



## Re-Inspection Report



**Property** – 37D McLelland Drive, Kilmarnock, KA1 1SG

**Reference-** FTS/HPC/RP/17/0209

**Surveyor** – Andrew Taylor, MRICS

**Previous Inspections** – Full Tribunal – 1st September 2017

**Re-inspection** – 2.00pm, 11<sup>th</sup> January 2018

**Weather** – Cold, dry and sunny.

**In Attendance** – Ms Mhari McDonald, Tenant, Ms Andrea McLean, Lyn Mar Letting Agents.

**Purpose of Re-inspection** - To establish if the work required under the Repairs Standard Enforcement Order had been completed.

**RSEO** – In terms of the RSEO issued on 7<sup>th</sup> September 2017 the Landlord was required to carry out such work as was necessary to ensure that the house meets the repairing standard and in particular the following specific areas: -

- a) To make good the ceiling, cornice and wall plasterwork and decoration in the living room where damaged by water penetration from the roof leak
- b) Repair damaged lath and plaster wall adjacent to the flat entrance door and make good decoration

Report as  
referred to  
is decision of  
6th February 2018  
attached  
hereto

L Dowdalls

Chairperson

- c) To supply and fit Carbon Monoxide detector compliant with the Scottish Government Statutory Guidance for the provision of Carbon Monoxide alarms in private rented housing.

**Works In Carried Out**

- a) The living ceiling, cornice and walls have been made good and decorated
- b) The damaged wall adjacent to the flat entrance door has been made good and decorated.
- c) A compliant Carbon Monoxide detector has been provided.

**Works in the RSEO Outstanding**

**Nil**

## Photographs



Ceiling, cornice and wall in Living Room, made good, January 2018



Wall adjacent flat entrance door, made good, January 2018



Carbon Monoxide detector - January 2018

#### **Comments**

This Report will be distributed to the Tenant and Landlord for comments and will be referred to the Tribunal of the Housing and Property Chamber, First-tier Tribunal For Scotland for their consideration and further action.

**Andrew Taylor MRICS**

**Surveyor Member, Housing and Property Chamber, First-tier Tribunal For Scotland**

**12<sup>th</sup> January 2018**