

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement relative to the Certificate of Completion issued by the Tribunal in terms of section 60 of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/RP/16/0290

Title Number: DMB85432

All and Whole the subjects known as and forming Woodend Lodge, Wardshill, Gartochairn G83 8SB, all as shown hatched blue on the Title Plan being part and portion of the subjects contained in Land Certificate number DMB85432 ("the Property")

The Parties: -

Miss Jennifer McDougall, formerly residing at the Property ("the Tenant")

and

Mr Mark Dinardo, Dinardo and Partners, Mirren Court (One), 119 Renfrew Road, Paisley, PA3 4EA ("the Landlord")

Tribunal:

**Mr Maurice O'Carroll (Legal Member and Chair)
Mr Kingsley Bruce (Ordinary Member) (Surveyor)**

Decision

The Tribunal having made such enquiries as was appropriate for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order ("RSEO") relative to the Property and taking into account subsequent inspections by 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.

- 1. By decision dated 30 November 2016, the Tribunal's statutory predecessor, the Private Rented Housing Committee, issued a determination that the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").**
- 2. On 2 December 2016, the Tribunal issued an RSEO. The RSEO required**

the Landlord to:

- (i) To have the Property inspected by a suitably qualified specialist to establish the extent of the issue of damp conditions within the Property; to identify the cause of the damp conditions; and to provide recommendations on which works are required to remedy the problem of damp conditions;
 - (ii) To produce a report from the specialist to the [Tribunal] with the findings of these investigations within 28 days of the date of this order;
 - (iii) To renew or carry out such repairs as are necessary to the windows of the property to ensure that they are in a reasonable state of repair and in proper working order; and
 - (iv) To carry out all ancillary works necessitated by the above and make good all decoration.
3. The RSEO allowed the Landlord a period of 6 weeks to complete the works required.
4. The RSEO was subsequently varied on 21 March 2017. An inspection by the Ordinary Member took place on 31 August 2017 where it was found that no works had been carried out. The RSEO was further varied on 12 September 2017 to allow further time for completion of the necessary works.
5. On 5 January 2018, the Tribunal re-inspected the Property and thereafter held a hearing at Alexandria Community Centre, Main Street Alexandria. The Landlord was present at both. The inspection revealed that some remedial work had been undertaken to the property including: repair/replacement of sections of flooring in the bathroom and kitchen to address timber defects arising from damp conditions. Damp proofing treatments had been undertaken, necessitating renewal of plaster to affected areas. Readings obtained with an electronic moisture meter were found to be within an acceptable range.
6. The inspection revealed, however, that mastic pointing was incomplete or missing between the timber frame and the stonework in the second bedroom. It was also noted that the opening casements in each of the windows in the two bedrooms were in need of repair to render them into a good state of repair and proper working order. This meant that requirement (iii) of the RSEO had not been complied with, although the remaining parts of the RSEO had been. The Landlord gave an undertaking at the hearing that each of the matters identified in respect of the windows at the property would be rectified within one calendar month.
7. In light of what was found at the inspection, the Tribunal was of the view that (a) a large amount of money had been expended by the Landlord in order to address the matters set out in the RSEO and (b) that it was not in the interests of proportionality that the Tribunal take enforcement action, such as sending a letter to the local authority, or reporting the matter to

the procurator fiscal for prosecution in relation to the defects found with the windows in respect of requirement (iii) of the RSEO. Accordingly, (c) it decided to accept the undertaking given by the Landlord and to issue the present certificate in terms of section 60 of the 2016 Act.

Decision

8. The Tribunal's decision was therefore to discharge the RSEO and to grant the Certificate of Completion in terms of section 60 of the Act. That decision was unanimous.

Right of Appeal

9. **A landlord or tenant aggrieved by this 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 of the 2006 Act

10. 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.

M O'Carroll

Legal Member and Chair

Date: 30 January 2018