

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/17/0066

Sasines Description: ALL and WHOLE those first and attic floor subjects being the subjects more particularly described in and disposed by Disposition to Nelly Smith Brand recorded GRS (Angus) 12 September 1961

178 Perth Road, Dundee, DD1 4JS ("the Property")

The Parties:-

NIALL PATRICK MCDONNELL, residing at 178 Perth Road, Dundee, DD1 4JS ("the Tenant")

MR RAGHUNATH LALL, residing at Wallwood House, Park Road, Banstead, Surrey ("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 served on 27 April 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 K Miller, Chairman, Solicitor, Thorntons Law LLP, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Tribunal at Dundee on 29 December 2017 before this witness:-

E Miller

Chairperson

L Johnston

_____ (witness)

Lindsay Johnston
Whitehall House
33 Yeaman Shore
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

Chamber Ref: FTS/HPC/RP/17/0066

178 Perth Road, Dundee, DD1 4JS (“the Property”)

The Parties:-

NIALL PATRICK MCDONNELL, residing at 178 Perth Road, Dundee, DD1 4JS (“the Tenant”)

MR RAGHUNATH LALL, residing at Wallwood House, Park Road, Banstead, Surrey (“the Landlord”)

Decision

The First-tier tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), having made such enquiries as was appropriate for determining whether the Landlord had complied with the Repairing Standard Enforcement Order (“RSEO”) in relation to the Property concerned and taking account of the subsequent reinspections over the Property, 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. By way of a Decision dated 27 April 2017, the Tribunal 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. The Tribunal had placed an RSEO on the Property also dated 27 April 2017, the RSEO required the Landlord:-**
 - (a) to carry out such works of repair to the roof of the Property to render it properly wind and watertight and to prevent further water ingress into the storeroom within the Property; and**
 - (b) to remove the condemned gas fire in the 2nd lounge and to carry out such works as are necessary to the fireplace behind it to render it compliant with the repairing standard.**

The RSEO required the Landlord to carry out the works within a period of 3 months from the date of service of the RSEO.

3. On 5 September 2017 a reinspection of the Property was carried out by Mrs Geraldine Wooley, Ordinary Member and qualified surveyor of the Tribunal. It was noted that the condemned gas fire had been removed, the fireplace boarded up and the wall redecorated. Accordingly one of the items required by the RSEO had been completed.
4. In relation to the works of repair to the roof of the Property to render it properly wind and watertight, the Tribunal noted that further works had been carried out. The party wall in the storeroom had been sealed and redecorated, and damp meter readings on the wall were low. However readings remained high in the coombed ceiling and below the chimney. The Tribunal was not, at that stage, satisfied that the works that had been carried out by the Landlord had been fully effective and that no further water ingress was occurring.
5. On 1 December 2017 a further inspection and hearing took place. The Landlord and his wife were present along with their builder. The Tribunal, comprising Mr E K Miller, Chairman and Legal Member and Mrs G Wooley, Ordinary Member again inspected the Property. The Landlord's builder highlighted additional works that had been done with the installation of new ventilators. The Tribunal took damp meter readings at the previous locations. Whilst the readings remained high, they were lower than previously. This indicated that there had been no further water ingress.
6. At the Hearing, the Landlord indicated they were prepared to carry out further works if the Tribunal thought it necessary, however they were hopeful that the works that had been carried out had been successful and that it was simply a case that because the Property was unoccupied it was taking a while for the plaster to dry out.
7. The Tribunal considered matters. From what the Tribunal had seen on the second inspection of 1 December 2017, further works had been carried out. Moisture levels were dropping, albeit slowly. On balance, however, the Tribunal was satisfied that the higher than average moisture readings were simply a sign of the property taking a while to dry out. The Property was unoccupied and it was winter time. Accordingly the drying out process would take considerably longer.
8. Accordingly the Tribunal was satisfied that it was appropriate to determine that the works set out in the RSEO had now been carried out and that the Property met the repairing standard. It would be prudent of the Landlord to monitor the area to ensure that no further water ingress occurred. The Tribunal accordingly determined that the RSEO should now be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act should be granted.

9. A copy of the reinspection report of 5 December 2017 and photographs taken at the inspection on 1 December 2017 are attached for information.

Decision

10. The decision of the Tribunal was to lift the RSEO and grant a Certificate of Completion discharging the RSEO.
11. 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 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

13. 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.

Signed

... **E Miller**

Date

..... 29/12/17
Chairperson

*This is the completion report of 5/9/17 and inspection report of 11/12/17
referred to in the foregoing decision*

E Miller

Housing and Property Chamber First-tier Tribunal for Scotland



Re-inspection report

Property: 178 Perth Rd Dundee DD1 4JS
Ref no: prhp/rp/17/0066
Surveyor : Geraldine Wooley MRICS
Access: 11.15 am 5/09/17
Weather conditions – light rainfall
Attendee: Mr Johnson – builder and landlord's representative.



RSEO: works required:

- a) to carry out such works of repair to the roof of the Property to render it properly wind and watertight and to prevent further water ingress into the storeroom within the Property; and
- b) to remove the condemned gas fire in the 2nd lounge and to carry out such works as are necessary to the fireplace behind it to render it compliant with the repairing standard.

Works in RSEO undertaken: the condemned gas fire has been removed, the fireplace boarded up and the wall redecorated (see photo 1), so works required by b) in the RSEO have been completed

Works in RSEO outstanding: the party wall in the storeroom has been sealed and redecorated, and damp meter readings on the wall are very low. However, readings remain high on the coombed ceiling and below the chimney (see photos 2 - 4), so the works required in a) of the RSEO have not been satisfactorily completed as there continue to be signs of water ingress into the storeroom.

An access hatch has been cut in the ceiling (see photo 4) and from this the roof ventilator (fitted when the roof was repaired) can be seen (photos 5a and b). It appears that rain is blowing in through the ventilator, causing high levels of damp in the plasterwork beneath it. However, the repair to the concrete fillet on the party wall (see photo 5a) seems to have prevented further ingress of water as the brickwork in the attic appears to be drying out (see photo 6).



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Appendix - photographs

1) Condemned sitting room gas fire

As at 19/04/17:
gas fire disconnected
and debris left in fireplace
behind it



As at 5/09/17: gas fire and fire surround removed, fireplace
boarded up and wall redecorated

2) Damp meter readings in store room: ceiling on party wall side under the chimney



As at 19/04/17 - reading of approx. 20



As at 5/09/17 - reading of 30

3a) Damp meter readings in store room: coombed ceiling on party wall side



As at 19/04/17 – reading of 32.9



As at 5/09/17 –
reading of 22.6

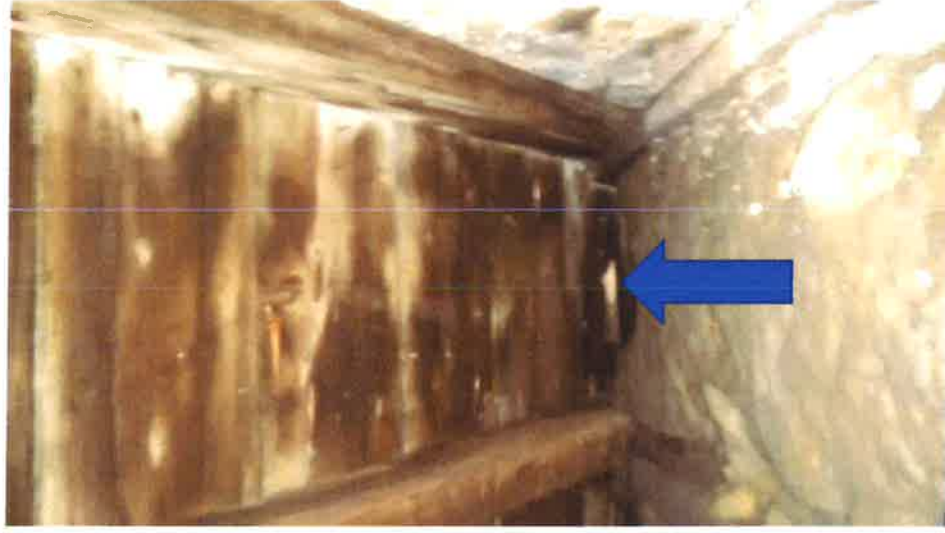
4) Continuing signs of water ingress and new access hatch



5) Condition of roof and ventilator above store room



5a) External view of ventilator



5b) Internal view of ventilator from access hatch, showing probable site of water ingress.

6) Party wall in roof space:
the mortar is “salting”, indicating
that the wall is drying out.





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Appendix – photographs reinspection 1/12/17

1a) Previous damp meter readings in store room: coombed ceiling
on party wall side



As at 19/04/17 – reading of 32.9



As at 5/09/17 – reading of 22.6

1b) Damp meter readings at 1/12/17



Readings remain high, but indicate that there has been no further water ingress.

2) External condition of roof and ventilator above store room



2a) External view of ventilator at 5/09/17



Ventilator removed and replaced with slate ventilation system

2b) External view 18/12/17



New flush-fitting slate ventilator

3) Internal condition of roof and ventilator above store room



3a) As at 5/09/17: internal view of ventilator from access hatch, showing probable site of water ingress – ventilator is directly open to air.



3b) As at 1/12/17: new ventilation system restricts opening.