

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”)

Certificate of completion of work under section 60 of the Housing (Scotland) Act 2006 (“the Act”) of the Private Rented Housing Committee issued under the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016

Chamber Ref: PRHP/RP/15/0212

Title number: ANG5012

Property: 53 Findowrie Place, Dundee, DD4 9NR (“the property”)

The Parties:-

Ms Gail Webster, 53 Findowrie Place, Dundee, DD4 9NR (“the tenant”)

Mr Stephen Donald, 18 Osprey View, Piperdam, Fowlis, Dundee (“the landlord”)

Tribunal Members:

Simone Sweeney (Legal member) Mike Links (Surveyor member)

CERTIFICATE OF COMPLETION

The tribunal hereby certifies that the work required by the **Repairing Standard Enforcement Order** relative to the Property served on 1st December 2015 has been

completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

Right of Appeal

A party to this application, 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

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.

...

... legal member

AT GLASGOW ON 1st FEBRUARY 2017

WITNESS:

Benny Divers, Advocate, Advocates' Library, Edinburgh, EH1 1RF

Housing and Property Chamber

First-tier Tribunal for Scotland



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

REVOCATION OF RENT RELIEF ORDER: Housing (Scotland) Act 2006 Section 27 (4)

Chamber Ref: PRHP/RP/15/0212

53 Findowrie Place, Dundee, DD4 9NR ("The house")

Title number: ANG 5012

The Parties:-

Ms Gail Webster, 53 Findowrie Place, Dundee, DD4 9NR

("the tenant")

Mr Stephen Donald, 18 Osprey View, Piperdam, Fowlis, Dundee

("the landlord")

Tribunal Members:

Simone Sweeney (Legal member) Mike Links (Surveyor member)

Decision

Considering that the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal") issued a Notice under Section 60 of the Housing (Scotland) Act 2006, dated 1st February 2017, certifying that the work required by the Repairing Standard Enforcement Order relative to the house dated 1st December 2015 has been completed, therefore in terms of section 27 (4) (b) of the Housing (Scotland) Act 2006 the tribunal hereby revokes the Rent Relief Order in relation to the house dated 7th September 2016. The revocation of the Rent Relief Order will take effect 28 days

after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the said Act (as amended).

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.

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.

S Sweeney

Legal chairing member.

AT GLASGOW ON 7th FEBRUARY 2017

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”)

Statement of facts and reasons for a decision to grant certificate of completion of work under section 60 of the Housing (Scotland) Act 2006 (“the Act”) of the Private Rented Housing Committee issued under the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016

Chamber Ref: PRHP/RP/15/0212

Property: 53 Findowrie Place, Dundee, DD4 9NR (“the property”)

The Parties:-

Ms Gail Webster, 53 Findowrie Place, Dundee, DD4 9NR (“the tenant”)

Mr Stephen Donald, 18 Osprey View, Piperdam, Fowlis, Dundee (“the landlord”)

Tribunal Members:

Simone Sweeney (Legal member) Mike Links (Surveyor member)

Decision

1. That a Certificate of completion of works (in terms of section 60 of the Act) and a revocation of the Rent Relief Order (in terms of section (27 (4) (b) of the Act) be issued.

Statement of facts and reasons

2. The tribunal issued a Repairing Standard Enforcement Order (RSEO) on 1st December 2015. The terms of the RSEO were that 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:-

- (i) *To have a full inspection and test of all electrical wiring and appliances at the property by a suitably qualified independent electrical engineer to ensure that all electrical installations at the property are in a reasonable state of repair and in proper working order;*
- (ii) *For the landlord to produce to the PRHP a copy of the electrical report with his findings;*
- (iii) *For all findings of that electrical inspection to be acted upon;*
- (iv) *For the integral fridge to be repaired or replaced;*
- (v) *For the kitchen unit door covering the integral fridge to be repaired to ensure that it is safe and operating correctly;*
- (vi) *For the shower in the bathroom of the upper level of the property to be fully investigated by a suitably qualified tradesman and to be replaced or repaired to ensure that the temperature of the water can be regulated;*
- (vii) *For the landlord to provide satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.*
- (viii) *For the landlord to arrange for a full inspection to be undertaken of the bathroom on the ground level of the property by a suitably qualified tradesman to identify the source of the water which is causing the flooring underneath the bath to be saturated;*

- (ix) *For a copy of the report following that inspection to be made available to the PRHP;*
- (x) *For the landlord to arrange for a survey of the bathroom to identify if there is any evidence of rot present in the bathroom;*
- (xi) *For a copy of that survey to be made available to the PRHP;*
- (xii) *For all necessary works to be taken thereafter to remove any rot identified, to eradicate the source of the water gathering underneath the bath, for sealant to be applied around the bath;*
- (xiii) *For the bathroom to be completely redecorated including replacement of the side bath panel;*
- (xiv) *For an effective means of ventilation to be installed within the bathroom on the ground level of the property;*
- (xv) *For all the above to be completed within 28 days of receipt of this Notice.*

3. A re-inspection of the property and a second hearing took place on 26th July 2016. Following that re-inspection and hearing, the tribunal issued a Notice of failure to comply with the terms of the RSEO on 7th September 2016. The Notice was served on the local authority. Reference is made to the tribunal's Notice and statement of reasons of 7th September 2016.
4. Having determined that the landlord had failed in his duty to comply with the terms of the RSEO, the tribunal determined to make a Rent Relief Order ("RRO") in terms of section 27 of the Act. Reference is made to the terms of the RRO of 7th September 2016.
5. Copies of the tribunal's decision, the Notice and the RRO were intimated to both parties. In response, the landlord wrote to the tribunal's administration under cover of letter, 14th September 2016.
6. Attached to the landlord's letter was an electrical installation condition report ("EICR") dated, 11th April 2016 and a report from Morgan Timber Preservation dated, 25th March 2016. The landlord advised that he had intimated these reports to the tribunal's administration some months

before. However due to an administrative oversight they had not reached the tribunal.

7. The EICR provided detail of an inspection of the property and referred to the *“whole electrical installation”* having been inspected for the purposes of the report. The report summarised the condition of the electrical installation at the property to be, *“good”* and, *“satisfactory.”* The author of the report, C. Docherty, an approved electrician, confirmed satisfaction that the electrical installation at the property be further inspected and tested in a period of 5 years.

8. The report from Morgan Timber Preservation referred to a survey of the property having been carried out on, 25th March 2016. The survey identified,

“Wet rot (conioophora puteana) is evident in the flooring and joists directly below bath area. This has also affected the wall plaster. As discussed your own contractor to carry out works as required. We would recommend that the flooring in this area is replaced using 19x 113 T & G treated floorboards. An inspection was also carried out to determine if rising damp was present. At the time of the survey no treatment was required.”

9. Within the letter of 14th September 2016 the landlord submitted that,

“Smoke detectors- We instructed a local company to carry out the works and advised installation for hard wired smoke detectors within the property...Upon receiving your last correspondence we can see this job was not carried out as per our instructions. In the meantime we have instructed another electrical firm to do this and fit x4 smoke detectors hard wired and linked.”

10. The letter also made reference to the cupboard door in the kitchen. The landlord submitted that,

“We will have this addressed by Monday 19th September and aim for this work to be completed by close of business same day.”

11. With regards to the issues of ventilation at the property, the landlord submitted in the same letter that,

"We have looked at this but will look again and address this issue given you have advised this is still not satisfactory."

12. In response to the submissions of the landlord the tenant's representative, Trudy Gill sent an email on 26th October 2016 in the following terms,

"...can confirm the smoke detectors have now been installed and the kitchen cupboard door repaired. The issue regarding ventilation in the bathroom remains outstanding."

13. An email dated 27th October 2016 was received from Kerry Donald on behalf of the landlord. The email read,

"I've just spoken to the tenant and the electrician just now who both confirm that a fan has been fitted in the bathroom in the property and this was done much earlier in the year."

14. In light of the content of the landlord's letter a further re-inspection of the property was assigned for 11th November 2016. The report of the surveyor identified the following,

i. "No handle has been put on the kitchen door.

ii. (xv) No longer applicable."

15. By email of 13th November 2016, Kerry Donald, on behalf of the landlord, produced a photograph of the kitchen door with a new handle fitted.

16. By email of 21st November 2016, Kerry Donald submitted that,

"Following inspection, a door handle on the kitchen cupboard door was fitted the following day and a photo of same emailed to PRHP... All works have been completed."

17. The tribunal was satisfied that, on the basis of the findings of the surveyor at the inspection, the property now appeared to be in a reasonable state of repair and that there were no issues outstanding in terms of the RSEO.

18. The tribunal was satisfied that all work required by the Repairing Standard Enforcement Order had been carried out. The tribunal resolved to issue a Certificate of Completion in terms of section 60 of the Act.

19. Having decided that a Certificate of Completion was to be issued, the tribunal revokes the RRO, in terms of section 27 (4) (b) of the Act which provides-

“(4) The committee may decide to revoke a rent relief order at any time; and the committee must decide to do so if—

(a) the repairing standard enforcement order to which the rent relief order relates is revoked, or

(b) a certificate is granted under section 60 in relation to the work required by that repairing standard enforcement order.”

20. The date of revocation of the RRO is 30 days from the date on which this decision may be appealed, as set out at sections 63 (4) and (5) of the Act which provide-

63 (4)A—

(a) rent relief order, or

(b) revocation of such an order,

has effect from the date set out in subsection (5).

(5) That date is the date which is 28 days after—

(a) the last date on which the decision to make or, as the case may be, revoke the rent relief order may be appealed under section 64, or

(b) where such an appeal is made, the date on which the appeal is abandoned or finally determined (by confirming the decision).

Right of Appeal

21. A party to this application, 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

22. 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.

S Sweeney

..legal member

AT GLASGOW ON 1st FEBRUARY 2017



PRHP Re-inspection report



Property: 53 Findowrie Place, Dundee DD4 9NR

Ref no: PRHP/RP/15/0212

Surveyor: Mike Links

In Attendance: Gail Webster (Tenant), Kerry Donald
(Acarsaid Properties, Landlord's Agent)

Weather: Dry and overcast.

THIS IS THE RE-INSPECTION REPORT DATED 11th NOVEMBER
2016 REFERRED TO IN THE FORGOING DECISION DATED
1st FEBRUARY 2017, SIMONE SWEENEY, LEGAL CHAIR.

Access: I re-inspected the property on Friday 11th November 2016 at 10.55 am.

RSEO: This report should be read in conjunction with the Re-inspection report dated 1st April 2016 in which the RSEO items are listed.

In addition, this report should be read in conjunction with the Statement of Reasons resulting from an Inspection and Hearing held on the 26th July 2016 and dated 29th August 2016.

Works in RSEO undertaken:

Works previously undertaken are listed in the Re-inspection Report dated 1st April 2016 and SOR dated 29th August 2016.

These were items (iv), (vi), (vii), (x), (xiii) and (xi)

Works undertaken and noted at the 11th November re-inspection are as follows:

(i). A EICR has been forwarded to the prhp admin and a hard copy was exhibited to me by Ms Donald. The EICR was undertaken by C D Electrics dated 4th April 2016. This indicates the electrical system is satisfactory albeit 3 items are marked as “3” requiring improvement.

(ii) See (i) above.

(iii) See (i) above.

(viii), (ix), (xii), (xiii) The Landlord’s agent had previously submitted a timber specialist’s report to the prhp admin. This was undertaken by Morgan Timber Preservation and dated 25th March 2016. A hard copy was exhibited to me by Ms Donald.

(vii) Hard wired interconnecting smoke and heat detectors have been installed in the Hall, Living Room, Kitchen, rear Hall and upper Landing.



Inner Hall smoke detector



Kitchen-heat detector



Living Room smoke detector



Hall smoke detector



Upper Landing smoke detector

It should be noted that a carbon monoxide detector has been fitted close to the central heating boiler. The tenant is aware that the monitor's location needs to be changed.



CO monitor

(xiv) It is accepted by the tenant that a new ventilator was installed in the ground floor bathroom some time ago.



This appeared to be operating at the time of my inspection.

Works in RSEO outstanding:

(v) No handle has been put on the kitchen unit door.



(xv) No longer applicable.

Recommendation:

Once the re-inspection report is forwarded to the Landlord and Tenant for comment the committee will then decide what further action is required.

Mike Links

Surveyor Member

Private Rented Housing Panel

Date: 12th November 2016
