

# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

Chamber Ref: PRHP/RP/16/0288

### Certificate of Completion of Work

Housing (Scotland) Act 2006 Section 60

### The Property

58B Newark Drive, Pollokshields, Glasgow, G41 4PX3 ("The Property")

Title no: GLA 11843

### The Parties

Miss Moynagh Silverwoods, formerly residing at the Property ("the Tenant"), represented by Govan Law Centre, 18-20 Orkney Street, Glasgow G51 2BX; and

Mr David Alston and Ms Marie Caughey ("the Landlord") both residing at 24 The Orchard, Athlumney, Navan, Meath, Ireland represented by Fineholm Letting Services, 114 Union Street, Glasgow G1 3QQ;

### The Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') hereby certifies that the works required by the Repairing Standard Enforcement Order ("the RSEO") relative to the Property, dated 30<sup>th</sup> January 2017, and served on the parties on 7<sup>th</sup> February 2017, have 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 seek permission to the Upper Tribunal for Scotland ("the Upper Tribunal") on a point of law only within 30 days of the date this decision was sent to them.

In witness whereof these presents typewritten on this page are executed by Gerald McWilliams, Solicitor, Legal Member of the Tribunal at Glasgow on 21st June 2017, before this witness:-

**P Stewart**

witness

PAUL STEWART

name in full

45 ROBERTSON ST, GLASGOW

address

**G McWilliams**

Legal Member

# **Housing and Property Chamber**

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

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

**Chamber Ref: PRHP/RP/16/0288**

**Statement of Decision: Housing (Scotland) Act 2006 Section 60 (5)**

### **The Property**

**58B Newark Drive, Pollokshields, Glasgow, G41 4PX("The Property")**

**Title no: GLA 11843**

### **The Parties**

**Miss Moynagh Silverwoods, formerly residing at the Property ("the Tenant"), represented by Govan Law Centre, 18-20 Orkney Street, Glasgow G51 2BX; and**

**Mr David Alston and Ms Marie Caughey ("the Landlord") both residing at 24 The Orchard, Athlumney, Navan, Meath, Ireland represented by Fineholm Letting Services, 114 Union Street, Glasgow G1 3QQ**

### **The 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 had complied with the Repairing Standard Enforcement Order dated 30<sup>th</sup> January 2017 ("the RSEO") in respect of the Property, and taken account of the written information provided by the Landlord's representative, decided that the Landlord has complied with the terms of the said RSEO and so the Tribunal resolved to issue a Certificate of Completion in respect of the works required by the said RSEO.

**The Tribunal comprised:-**

**Gerald McWilliams, Legal Member and**

**Carol Jones, Ordinary Member**

## **Background**

1. On 30<sup>th</sup> January 2017, the Tribunal issued a Decision which stated that the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act"). On 7<sup>th</sup> February 2017, the Tribunal issued the RSEO in respect of the Property.
2. The RSEO made by the Committee required the Landlord:-
  - (1) To carry out such works as are required to ensure that all windows in the Property are in a reasonable state of repair and in proper working order. In particular the Landlord has to repair or replace all broken panes and missing/broken catches/handles and to ensure that all windows in the property are capable of opening and closing Properly; in terms of (Section 13(1)(a) and (d) of the said Act); and
  - (2) To demonstrate that David Fitch Electrical Limited, who produced the EICR, dated 22<sup>nd</sup> February 2016, is suitably qualified and registered with either SELECT or NICEIC in terms of (Section 13(1)( c ) of the said Act); and
  - (3) To instruct a suitably qualified Timber Preservation and Damp Proofing Specialist to investigate the cause of dampness in the small bedroom within the Property and to provide a report to the Tribunal, carry out any works recommended in the report, and provide evidence that the works have been completed satisfactorily in terms of (Section 13(1)(a) of the said Act); and
  - (4) To make suitable adjustments to allow the electric radiator/towel rail heater in the bathroom to be easily operated and carry out any necessary repairs to ensure that this heater is in a reasonable state of repair and proper working order or to remove it completely, in terms of Section 13(1)(c) of the said Act.
2. The Tribunal ordered that the works specified in the RSEO were to be carried out and completed within 56 days of the date of service of the RSEO upon the parties, on 7<sup>th</sup> February 2017, that is, by 4<sup>th</sup> April 2017.
3. The Tribunal subsequently received written confirmation from the Landlord's representative that the works in terms of the RSEO had been completed. They received emails attaching documentation sought in the RSEO.
4. A re-inspection of the Property by the Ordinary Member took place on 26th April 2017. The Ordinary Member's re-inspection report dated 27th April 2017 is attached to this Decision. She found as follows:
  - (1) Works have been carried out to improve the state of repair and working order of the windows. New handles and sash locks have been fitted to several windows, some sash cords and pulley wheels have been replaced and the cracked panes in the dining room and small bedroom windows have been replaced with new glazing. All windows open except the central sash window in the bay in the living room which remains stuck with paint.

(2) The Landlord's representative provided the NICEIC registration number for the electrician who produced the Electrical Installation Condition Report, David Fitch Electrical Limited, and the Tribunal's Administration Office has confirmed that this company is a NICEIC registered contractor.

(3) The Landlord's representative instructed a Timber Preservation and Damp Proofing Specialist, Bromac Limited, to inspect the Property and a report from that company, dated 2<sup>nd</sup> February 2017, was provided to the Tribunal. The small bedroom is described as "Room Rear Right" in the report which notes that there is "a small area of defective plaster" and "salt contamination above the cut line of previous plaster works which were carried out". The report quotes for the cost of re-plastering two small areas of affected wall and the Landlord's representative has confirmed that this work has been carried out. The report makes general remarks about the whole Property being affected by condensation and states that there are no signs of rising dampness within the Property. At the re-inspection some damp meter readings were taken in the small bedroom. A high moisture reading was found in a very localised area at the base of the exterior wall at the left side of the window in this room, in the same area which showed a high reading at the previous inspection.

(4) The electric radiator/ towel rail heater has been removed from the bathroom.

5. The Landlord's representative confirmed to the Tribunal's Administration Office, on 10<sup>th</sup> May 2017, that the Landlord had sold the Property to Miss Siobhan Wilson, who is now resident in the Property, on 3<sup>rd</sup> March 2017.

6. Thereafter the Tribunal considered whether or not it was appropriate to find that the works required by the RSEO had been completed and a Certificate of Completion under Section 60(5) of the Act should be issued. In arriving at its decision the Tribunal had regard to the statements of the Landlord's representative in response to the terms of the re-inspection report which had been sent to them. There are still minor issues in relation to a small section of plasterwork in the small bedroom and one window in the living room. The Tribunal had regard to the terms of the RSEO and considered whether or not the condition of the said plasterwork section and window is reasonable taking into account the age and character of the Property. On balance the Tribunal considered that the condition is reasonable and, accordingly, that it was appropriate to issue a Certificate of Completion in terms of Section 60(5) of the Act.

### **The Decision**

**The decision of the Committee was to grant a Certificate of Completion under Section 60(5) of the Act and to revoke the RSEO. This decision was unanimous.**

**In terms of section 46 of the Tribunals (Scotland) Act 2014, a Landlord, Tenant or Third Party Applicant aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland ("the Upper Tribunal") 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 this 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.**

**G McWilliams**

\_\_\_\_ Legal Member

21st June 2017



## Re-inspection report



**Date of inspection:** Wednesday 26 April 2017

**Reference Number:** PRHP/RP/16/0288

**Property:** 58B, Newark Drive, Pollokshields, Glasgow G41 4PX

**Surveyor:** Carol L Jones MA MRICS

**Previous Inspections:** The subject property was inspected by the Tribunal on 19 January 2017 and as a result a Repairing Standard Enforcement Order dated 30 January 2017 was served.

**Access:** One of the new owners of the property Mr Sefa Ucbas provided access to the property.

**Weather:** Cold and overcast with some light drizzle.

**In attendance:** The landlord's representative Leanne Drummond of Fineholm Letting Services attended the inspection.



## **Repairing Standard Enforcement Order (RSEO) dated 30 January 2017**

The Tribunal now requires the Landlord to carry out such works as are necessary for the purpose of ensuring that the house concerned meets the Repairing Standard and that any damage caused by the carrying out of any works in terms of this Order is made good.

In particular the Tribunal requires the Landlord:-

- (1) To carry out such works as are required to ensure that all windows in the Property are in a reasonable state of repair and in proper working order. In particular the Landlord has to repair or replace all broken panes and missing/broken catches/handles and to ensure that all windows in the property are capable of opening and closing properly; in terms of (Section 13(1)(a) and (d) of the said Act).
- (2) To demonstrate that David Fitch Electrical Limited, who produced the EICR, dated 22<sup>nd</sup> February 2016, is suitably qualified and registered with either SELECT or NICEIC in terms of (Section 13(1)( c ) of the said Act).
- (3) To instruct a suitably qualified Timber Preservation and Damp Proofing Specialist to investigate the cause of dampness in the small bedroom within the property and to provide a report to the Tribunal, carry out any works recommended in the report, and provide evidence that the works have been completed satisfactorily in terms of (Section 13(1)(a) of the said Act).
- (4) To make suitable adjustments to allow the radiator/towel rail in the bathroom to be easily operated and carry out any necessary repairs to ensure this heater is in a reasonable state of repair and proper working order or remove it completely, in terms of (Section 13(1) (c) of the said Act).

The Tribunal order that the works specified in this Order must be carried out and completed within the period of eight weeks (fifty six days) from the date of service of this Notice.

### **Works in the RSEO fully or partly undertaken - see attached photographs:**

- (1) The landlord has carried out works to improve the state of repair and working order of the windows. New handles and sash locks have been fitted to several windows, some sash cords and pulley wheels have been replaced and the cracked panes in the dining room and small bedroom windows have been replaced with new glazing. All windows open except the central sash window in the bay in the living room which remains stuck with paint.
- (2) The landlord provided the NICEIC registration number for the electrician who produced the Electrical Installation Condition Report, David Fitch Electrical Limited and the Tribunal administration has confirmed this company is an approved contractor.

(3) The landlord instructed a timber preservation and damp proofing specialist, Bromac Limited to inspect the property and a report from the company dated 2 February 2017 was provided to the Tribunal. The small bedroom is described as "Room Rear Right" in the report which notes that there is "a small area of defective plaster" and "salt contamination above the cut line of previous plaster works which were carried out". The report quotes for the cost of re-plastering two small areas of affected wall and the landlord's representative confirmed this work has not been carried out. The report makes general remarks about the whole property being affected by condensation and states there are no signs of rising dampness within the property. At the re-inspection some damp meter readings were taken in the small bedroom and a high moisture reading was found to a very localised area at the base of exterior wall at the left side of the window in this room, this is the same area which showed a high reading at the previous inspection.

(4) The landlord has completely removed the electric heater/towel rail from the bathroom.

**All photographs were taken at the re-inspection on 26 April 2017 (see schedule below).**

**Comments:** This report will be submitted to the First-tier Tribunal for Scotland (Housing and Property Chamber) for their decision.

**Carol L Jones MA MRICS  
Ordinary Member (Surveyor)  
First-tier Tribunal for Scotland (Housing and Property Chamber)**

**27 April 2017**

Schedule of photographs taken during the re- inspection of 58B, Newark Drive, Pollokshields, Glasgow G41 4PX by the ordinary member (surveyor) of the First-tier Tribunal for Scotland (Housing and Property Chamber) on the 26 April 2017.

Reference Number : PRHP/RP/16/0288



Large Bedroom - Window - right side



Living Room Window - right side





Living Room Window - right side



Living Room Window - left side



Living Room Window - left side



Dining Room Window



Small Bedroom Window



Small Bedroom - high moisture reading to base of external wall to left of window above skirting



Bathroom - towel rail/electric heater - removed