

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/17/0093

Sasine Description: ALL and WHOLE the northmost flatted dwellinghouse on the ground floor of the tenement forming Number Twenty Five Court Street North, Dundee described in Disposition by The City of Dundee District Council dated 29 December 1993 and recorded GRS (Angus) 21 January 1994.

**Property at 25A Court Street, Dundee, DD3 7NR
("The Property")**

The Parties:-

**MS RHONA MINTO, 25A Court Street, Dundee, DD3 7NR
(represented by Mr Peter Kinghorn, Dundee North Law Centre, 101 Whitfield Drive, Dundee, DD4 0DX)
("the Tenant")**

**MRS RACASNA SARWAR OR RASHID, 15 Duff Street, Dundee, DD4 7AN
(represented by Muir Myles Laverty, Solicitors, Meadowplace Building, Bell Street, Dundee, DD1 1EJ)
("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 4 July 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/

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 are executed by Gillian Coutts Buchanan, Legal Member of the Tribunal, at Dundee on 13th February 2018 in the presence of the undernoted witness:-

J Lynch

_witness

G Buchanan

_Legal Member

JENNI LYNCH name in full

THORNTONS LAW LLP
WHITEHALL HOUSE address

33 YAMMAN 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, Section 60

Chamber Ref: FTS/HPC/RP/17/0093

**Property at 25A Court Street, Dundee, DD3 7NR
("the Property")**

The Parties:-

**MS RHONA MINTO, 25A Court Street, Dundee, DD3 7NR
(represented by Mr Peter Kinghorn, Dundee North Law Centre, 101 Whitfield
Drive, Dundee, DD4 0DX)
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**MRS RACASNA SARWAR OR RASHID, 15 Duff Street, Dundee, DD4 7AN
(represented by Muir Myles Laverty, Solicitors, Meadowplace Building, Bell
Street, Dundee, DD1 1EJ)
("the Landlord")**

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 has complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, and taking account of the subsequent inspection of the Property by the tribunal and the documentation submitted to 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.

Background

1. By a determination dated 29 June 2017 the tribunal determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that she had failed to ensure that the Property met the repairing standard. The works required by the RSEO were: -
 - (i) To engage a reputable heating engineer to investigate whether the central heating and hot water systems in the Property, including the boiler and radiators, operate correctly and to carry out any works recommended by that heating engineer to ensure that the central heating and hot water systems, including the boiler and radiators, are in a reasonable state of

repair and in proper working order and safe to use, and without prejudice to the foregoing generality, the tribunal requires the Landlord to have the heating engineer prepare a report on any faults found and to exhibit this report to the tribunal.

- (ii) To repair or replace the gas fire in the living room.
- (iii) To repair or replace the toilet in the bathroom to ensure that the base is secured properly to the floor and is otherwise in a reasonable state of repair and in proper working order.
- (iv) To repair or replace the dilapidated base cupboard units in the kitchen situated to the left of the sink and the base drawer unit to ensure that they are in a reasonable state of repair and in proper working order.
- (v) To repair or replace the cooker hood to ensure that it is in a reasonable state of repair and in proper working order.
- (vi) To box in the exposed pipes beneath the boiler in the kitchen.
- (vi) To repair or replace the exterior letter box plate and the internal handle plate of the front door to ensure that they are in a reasonable state of repair and in proper working order.
- (vii) To repair or replace the livingroom and rear bedroom doors to ensure that they open and close correctly and are in a reasonable state of repair and in proper working order.
- (viii) To install a carbon monoxide detector to comply with the requirements of the relevant legislation.
- (ix) To produce a new Gas Safety Certificate confirming that all relevant gas installations, including the living room fire, are in proper working order, safe to use and comply with the relevant regulations. The Landlord is to exhibit such Gas Safety Certificate to the tribunal.

The RSEO gave the Landlord 10 weeks to carry out the works.

2. On 20 September 2017 the Ordinary (Surveyor) Member of the tribunal, Ms Geraldine Wooley, re-inspected the Property on behalf of the tribunal. The Tenant was neither present nor represented. The Landlord was neither present nor represented.

The Ordinary (Surveyor) Member could not obtain access into the Property. It appeared to the Ordinary (Surveyor) Member that some work had been carried out since the original inspection and issuing of the RSEO, namely that the exterior letter box plate had been repaired.

The Ordinary (Surveyor) Member could not establish the extent of any other works carried out internally.

3. The tribunal, comprising Miss Gillian Buchanan, Legal Member and Chairperson and Ms Geraldine Wooley, Ordinary (Surveyor) Member, inspected the Property on the morning of 31 October 2017. The Tenant was neither present nor represented. The Landlord was present. Access to the property was given by Mr Kris Boyle, a friend of the Tenant, who resides at 60 Court Street, Dundee, DD3 7NR.
4. Following the inspection of the Property the tribunal held a hearing at Kirkton Community Centre, Derwent Avenue, Dundee, DD3 0AX and heard from the Landlord who was present and represented by her father, Mr Mohammed Sarwar. The Tenant was neither present nor represented.
5. The tribunal considered how to proceed in light of the Landlord's representations and submissions. The re-inspection revealed:
 - (i) That the gas fire in the lounge had been removed and the space in the fireplace where the fire used to sit had been boarded over.
 - (ii) That the toilet had been repaired and was now in a reasonable state of repair and in proper working order.
 - (iii) That the base cupboard and base drawer units in the kitchen had been repaired and were now in a reasonable state of repair and in proper working order.
 - (iv) That the cooker hood had been repaired and was now in a reasonable state of repair and in proper working order.
 - (v) That the exposed pipes in the kitchen had been boxed in.
 - (vi) That the exterior letter box plate and the internal handle plate of the front door had been repaired or replaced and were now in a reasonable state of repair and in proper working order.
 - (vii) That the living room and rear bedroom doors had been replaced and were now in a reasonable state of repair and in proper working order.
 - (viii) That a carbon monoxide detector had been installed in the kitchen in compliance with the relevant legislation.
6. The tribunal was also satisfied that the Landlord had obtained and produced to the tribunal a report from a reputable heating engineer who had investigated whether the central heating and hot water systems in the Property operated correctly and who confirmed that the systems are in a reasonable state of repair and in proper working order, all as required by the RSEO.

7. The tribunal considered that:-

- (i) The removal of the gas fire in the lounge did not conform to the terms of the RSEO which required that the gas fire be repaired or replaced, the gas fire being a fixture within the Property as leased to the Tenant.
- (ii) Whilst a new Gas Safety Certificate had not yet been produced to the tribunal such a Certificate could not be obtained by the Landlord to the tribunal's satisfaction until the gas fire in the lounge had been repaired or replaced as required by the RSEO.

In light of substantial works have being done in compliance with the RSEO and taking into account the Landlord's commitment to complete the required works, it was appropriate to give an extension to allow the Landlord to undertake the outstanding works required by the RSEO. A period of 4 weeks was allowed and the RSEO was varied to that effect by Notice of a Decision to Vary dated 7 November 2017 .

- 8. On 5 January 2018 the Ordinary (Surveyor) Member of the tribunal, Ms Geraldine Wooley, re-inspected the Property on behalf of the tribunal. The Tenant was present. The Landlord was neither present nor represented.

9. The re-inspection revealed:-

Works in RSEO undertaken:

- (i) That the flat was warm, indicating that the heating system is working satisfactorily.
- (ii) That in the living room a new electric fire has been supplied and installed in substitution for the gas fire which had previously been removed. The Tenant stated that she is satisfied that this is a reasonable substitution for the gas fire.
- (iii) That although the toilet had been repaired and is now in a reasonable state of repair and in proper working order, the plastic cistern is old and may need replacement in the near future.
- (iv) The base cupboard and drawer units in the kitchen and the cooker hood are in a reasonable state of repair and in proper working order; and
- (vi) That the exposed pipes in the kitchen have been boxed in.
- (vii) That the exterior letter box plate and the internal handle plate of the front door have been replaced and are now in a reasonable state of repair and in proper working order.
- (ix) That the living room and rear bedroom doors have been replaced and are now in a reasonable state of repair and in proper working order.
- (x) That the carbon monoxide detector had now been moved to a more satisfactory position.

Works in RSEO outstanding:

There are no works outstanding, but the Landlord required to produce a valid, satisfactory Gas Safety Report.

A copy of the Re-inspection Report is attached.

10. Following the Re-inspection Report being issued to the parties, by email dated 11 January 2018 the Landlord submitted to the tribunal a Gas Safety Record dated 18 May 2017 prepared by Derek Auld of Dundee Gas Services, 21 Sutherland Crescent, Dundee, DD2 2HP which is satisfactory in its terms. By further email dated 26 January 2018 the Landlord made representations to the tribunal that she did not receive the letter by post and had therefore been unable to reply. She asked for an oral hearing to be fixed.
11. Following the Re-inspection Report being issued to the parties, by letter received on 12 January 2018 the Tenant made representations to the tribunal that she did not wish to attend a hearing but that there were outstanding repairs that the Landlord fails to rectify namely draughty windows, an unsafe and broken fence, damp damage to the plaster on the bathroom walls and that due to crumbling no fittings stay on the walls securely.

Decision

12. The tribunal carefully considered the evidence and the parties representations and was satisfied that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act should be granted.
13. The decision of the tribunal was unanimous.

Reasons for Decision

14. The works identified in the RSEO had been completed. A further hearing is not required.
15. With regard to the requirement to repair or replace the gas fire in the living room, the tribunal was satisfied that the installation of an electric fire was a suitable substitute for the gas fire which had been removed.
16. With regard to the Gas Safety Record dated 18 May 2017, in light of the gas fire having been removed and an electric fire substituted therefore, the Gas Safety Record was sufficient in its terms.
17. The representations of the Tenant contained in her letter of 12 January 2018 concerned complaints that had already been considered and determined by the tribunal or that were new. The tribunal could not therefore have regard to the Tenant's complaints.

Right of Appeal

18. **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 tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**
19. **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.**

Signed **G Buchanan**

Date 13th February 2018

Chairperson & Legal Member

Dundee 13 February 2017
This is the Re-inspection Report referred to in
the Foregoing Decision **G Buchanan**

Housing and Property Chamber
First-tier Tribunal for Scotland



Re-inspection report

Property: 25A Court St Dundee
Ref no: prhp/rp/16/0093
Surveyor : Geraldine Wooley MRICS
Access: 5/01/18
Weather – wet and cold
Attendees: Rhona Minto – tenant



General comments: all items in the RSEO have been addressed. The tenant has agreed that an electric fire is a suitable replacement for the gas fire. However, no valid Gas Safety certificate has been supplied; this is still required as there is gas central heating in the property.

RSEO: works required

- (i) To engage a reputable heating engineer to investigate whether the central heating and hot water systems in the Property, including the boiler and radiators, operate correctly and to carry out any works recommended by that heating engineer to ensure that the central heating and hot water systems, including the boiler and radiators, are in a reasonable state of repair and in proper working order and safe to use, and without prejudice to the foregoing generality, the tribunal requires the Landlord to have the heating engineer prepare a report on any faults found and to exhibit this report to the tribunal.
- (ii) To repair or replace the gas fire in the living room.
- (iii) To repair or replace the toilet in the bathroom to ensure that the base is secured properly to the floor and is otherwise in a reasonable state of repair and in proper working order.
- (iv) To repair or replace the dilapidated base cupboard units in the kitchen situated to the left of the sink and the base drawer unit to ensure that they are in a reasonable state of repair and in proper working order.
- (v) To repair or replace the cooker hood to ensure that it is in a reasonable state of repair and in proper working order.
- (vi) To box in the exposed pipes beneath the boiler in the kitchen.
- (vi) To repair or replace the exterior letter box plate and the internal handle plate of the front door to ensure that they are in a reasonable state of repair and in proper working order.
- (vii) To repair or replace the living room and rear bedroom doors to ensure that they open and close correctly and are in a reasonable state of repair and in proper working order.

- (viii) To install a carbon monoxide detector to comply with the requirements of the relevant legislation.
- (ix) To produce a new Gas Safety Certificate confirming that all relevant gas installations, including the living room fire, are in proper working order, safe to use and comply with the relevant regulations. The Landlord is to exhibit such Gas Safety Certificate to the tribunal.

Works in RSEO undertaken:

- (i) At the hearing on 31/10/17 the landlords produced a report from Dundee Gas Services and dated 29 October 2017 which confirmed the boiler and radiators operate correctly (see appendix). At the inspection on 5/01/18 the flat was warm, indicating that the heating system is working satisfactorily.
- (ii) At the inspection and hearing on the 31/10/17, the Tribunal required the landlord to replace the gas fire which had been removed. However, a new electric fire has been supplied, and the tenant is satisfied that this is a reasonable substitution for the gas fire (see photo 1b).
- (iii) Although the toilet had been repaired and was now in a reasonable state of repair and in proper working order, it should be noted that the plastic cistern is old and may need replacement in the near future (see photo 2b).
- (iv) As noted on 31/10/17, the base cupboard and drawer units (photos 3a & b) in the kitchen and
- (v) the cooker hood (photo 3c) are in a reasonable state of repair and in proper working order and
- (vi) the exposed pipes in the kitchen (photo 3d) have been boxed in.
- (vii) The exterior letter box plate and the internal handle plate of the front door have been replaced and are now in a reasonable state of repair and in proper working order (see photos 4a & b).
- (viii) The living room and rear bedroom doors have been replaced and are now in a reasonable state of repair and in proper working order (see photos 5a & b)
- (ix) At the inspection and hearing on 31/10/17 it was noted that a carbon monoxide detector had been installed in the kitchen, but it was placed on the doorframe so only just in compliance with the relevant legislation. This has now been moved to a more satisfactory position (see photo 6b).

Works in RSEO outstanding: there are no works outstanding, but the landlord is required to produce a valid, satisfactory Gas Safety report as indicated in the RSEO item (i) above and confirmed in section 15(ii) of the Decision dated the 7 November 2017.

Housing and Property Chamber
First-tier Tribunal for Scotland



Appendix 1
Photo report
25A Court St DD3 7NR
Re-inspection 5/01/18

1) Gas fire



1a) As at 31/10/17 – fire removed
and fireplace boarded up



1b) As at 5/01/18 – replacement electric fire supplied by landlord

2) Toilet



2a) As at 31/10/17 – securely fixed To floor



2b) As at 5/01/18 – toilet remains securely fixed but cistern is old and may need replacement.

3) Kitchen - RSEO items (iv) to (vi) remain in good working order as at 5/01/18



3a) Drawers as at 31/10/17



3b) Drawers as at 31/10/17



3c) cooker hood as at 31/10/17



3d) Boxed-in
pipework as at
31/10/17

4) Front door – door furniture remains in good working order as at 5/01/18



4a) New internal door handle and lock as at 31/10/17



4b) As at 31/10/17 – new letterbox fitted.

5) Both internal doors - RSEO item (viii) - remain in good working order at 5/01/18



5a) Sitting room door as at 31/10/17 – new door correctly fitted to frame



5b) Spare bedroom door as at 31/10/17 – door correctly fitted to frame

6) Carbon monoxide alarm



6a) As at 31/10/17 – fixed to door lintel – just within regulations



6b) As at 5/01/18 – raised to a more satisfactory position above lintel



DGS

Dundee Gas Services



Boiler Replacement • Servicing and Repairs • Powerflushing and Filters • Radiator Upgrades

29 October 2017

To whom it may concern,

RE: 25A Court Street, Dundee, GCH investigation

We were recently requested by Mrs Rashid to conduct an inspection of the boiler and radiators at the above property on Thursday, 26th October 2017 to determine that they were operating correctly and if necessary, to detail in a report, any faults that in our opinion needed rectifying to meet that criteria.

On our arrival, the boiler was switched on by selecting the heating mode. After a short time, the radiators were inspected to ensure that they were heating up as expected. The tenant highlighted her concerns regarding the cold spot at the bottom of the living room radiator but we reassured her that this was perfectly normal as the system reached working temperature (the radiator in the back bedroom took longest to heat up as it is a large radiator and is fed by 8mm microbore pipe). After a further period, it was noted that the CH system had reached temperature and all radiators were operating at a high temperature.

In our opinion, the central heating system, including the boiler and radiators, are in a reasonable state of repair and working properly.

In addition,

- A carbon monoxide detector is affixed in the kitchen, adjacent to the gas appliances
- The property has a valid Landlord Gas Safety certificate.

Yours faithfully,

Stephen Maddison
Partner

Dundee Gas Services
21 Sutherland Crescent, Dundee DD2 2HP

VAT Reg No: 272 2268 10

E: service@dundeegasservices.co.uk T: 01382 782702 W: www.dundeegasservices.co.uk