

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: PRHP/RP/16/0248

Title No: ABN94958

Property at 124 Dee Village, Millburn Street, Aberdeen, Ab11 6sy ("The Property")

The Parties:-

ARNAUD MINETTI and CLEMENT MINETTI, both residing at 124 Dee Village, Millburn Street, Aberdeen, AB11 6SY ("the Tenant")

GRAEME MALCOLM DAVID SHARP, c/o CDM Lettings, 86 Great Western Road, Aberdeen, AB10 6QF (represented by Mr Chris Minchin of CDM Lettings) ("the Landlords")

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 dated 26 September 2016 as varied on 8 May 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 Kenneth Miller, legal member of the Tribunal, at Dundee on the 29 December 2017 in the presence of the undernoted witness:-

L Johnston

_witness

E Miller

_Legal member

Lindsay Johnston
Secretary
Thorntons Law LLP, Whitehall House
33 Yeaman Shore, Dundee

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: PRHP/RP/16/0248

124 Dee Village, Millburn Street, Aberdeen, AB11 6SY ("The Property")

The Parties:-

ARNAUD MINETTI and CLEMENT MINETTI, both residing at 124 Dee Village, Millburn Street, Aberdeen, AB11 6SY ("the Tenants")

GRAEME MALCOLM DAVID SHARP, c/o CDM Lettings, 86 Great Western Road, Aberdeen, AB10 6QF (represented by Mr Chris Minchin of CDM Lettings) ("the Landlord")

Decision

The First Tier Tribunal for Scotland (Housing & 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 re-inspections of 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 26 September 2016, the Tribunal had issued a determination that the Landlords 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 26 September 2016, the RSEO required that the Landlords:-**
 - (a) To carry out such works as are necessary to the larger building of which the Property forms part in order to render it properly wind and watertight and free from water/damp penetration, followed by internal rectification works to the affected areas around the lounge window; and**
 - (b) To carry out appropriate works to the main bedroom and ensuite bathroom to reduce the incidence of mould build-up including, without prejudice to the foregoing generality, the cleaning of mould from the**

windows and the application of fungicidal solution and mould resistant paint.

3. On 18 January 2017 a re-inspection of the Property was carried out by Mr Angus Anderson, the Ordinary Member and qualified surveyor. All affected windows had been re-decorated and there was no longer any evidence of mould, staining from water ingress or blistered plaster. Damp meter readings were taken at the locations tested previously and showed slightly above average damp readings. The Tenants were using a dehumidifier in the main bedroom.

The Landlord and his agents had indicated that it was accepted that there were communal repairs required to the larger building to address water ingress. There was an issue in relation to works carried out by the original developer of the larger block of flats. Discussions were being had with NHBC in this regard. Efforts were being made to resolve liability for the external repairs but, in the meantime, there was little the Landlord could do in relation to the exterior works. The Tribunal accepted this and on 8 May 2017 the Tribunal varied the RSEO to allow the Landlord a further period of 4 months from the date of service of the Variation of the RSEO to carry out the external works.

On 4 October 2017 a further re-inspection of the Property was carried out, again by Mr Angus Anderson, Ordinary Member of the Tribunal. A copy of the report and photographs is attached. The interior of the Property was still in acceptable condition. In relation to the exterior difficulties, agreement had been reached between NHBC and the various owners within the block. Communal repair works had now been carried out, including renewal of the sealant over the lounge/kitchen window and pointing work to the wallhead over the bedroom window. The repairs could not be seen from ground level, so the landlord later submitted the invoice confirming the work had been completed.

The Tribunal, consisting of Mr E K Miller, Chairman and Legal Member and Mr Angus Anderson, Ordinary Member considered matters. The Tribunal was satisfied that the works set out in the RSEO had now been carried out and that the Property met the repairing standard. On that basis the Tribunal determined the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act would be granted.

A copy of the reinspection report and photographs are attached for information.

Decision

4. The decision of the Tribunal was to lift the RSEO and grant a Certificate of Completion discharging the RSEO.
5. The decision of the tribunal was unanimous.

Right of Appeal

6. 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.

Effect of section 63

7. 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

Housing and Property Chamber

First-tier Tribunal for Scotland



Housing (Scotland) Act 2006: Re-inspection Report

Property: 124 Dee Village, Millburn Street, Aberdeen AB11 6SY

Chamber Reference : PRHP/RP/16/0248

Re-inspection Date: 04/10/2017 - 2.30pm

Weather conditions: Dry and overcast, with mainly dry conditions over the preceding seven days.

In attendance: Mr Ian Sharp, representing Graeme Sharp, Landlord. Ms Isla Cheyne, representing Graeme Cheyne, Builders. Mr Alistair Walker, Atholls (Factor), Mr Chris Minchin and Mr Gareth Winchester, (future leasing Agents).

Tribunal Member: Angus Anderson



Front Elevation.

E Miller

Repairing Standard Enforcement Order (RSEO)

Works required by the RSEO:

1. To carry out such works as are necessary to the larger building of which the Property forms part in order to render it properly wind and watertight and free from water/damp penetration, followed by internal rectification works to the affected areas around the lounge window; and
2. To carry out appropriate works to the main bedroom and en-suite bathroom to reduce the incidence of mould build-up including, without prejudice to the foregoing generality, the cleaning of mould from the windows and the application of fungicidal solution and mould resistant paint.

Works in the RSEO undertaken:

1. From a ground level inspection, it was not possible to ascertain if rectification works have been undertaken to the exterior of the building. The internal areas had been redecorated. Moisture meter readings were taken at the sides of the lounge/kitchen, bedroom and en-suite shower room windows. Where tested, moisture meter readings were in the amber range, between 14 and 20%, indicating slightly higher than normal.
2. The areas previously affected by mould and efflorescence had been redecorated before my previous inspection (18/01/2017). There was no evidence of any recurrence.

Observations/comment:

Some weeks prior to the re-inspection, the Tribunal asked the landlord to provide details of remedial works undertaken. When the assembled group was asked for details of the external remedial work undertaken, Mr Walker referred to the nineteen page document which he had just handed to me, which is attached to this report. In summary, the documentation is a copy of a letter from NHBC, dated 26/07/17 refusing a claim against the NHBC warranty which was submitted by the Factor, an investigation report of the same date, prepared by NHBC and a Scope of Works. The report included a thermographic survey of the subject flat, dated 10/07/17. The survey identified water penetration at the kitchen and master bedroom and concluded the cause was defective pointing at the wallhead over the bedroom window and defective sealant at the leadwork and masonry over the kitchen window. No invoice was present.

The flat appeared to be unoccupied.

This report will be distributed to the parties and their representatives for their comment. The report and comments received will be referred to the Tribunal for consideration and further action.

Photographs were taken on the day of inspection and are attached.

Angus Anderson, MRICS; Date of report: 05/10/2017.

*This is the re-inspection report and schedule of photographs
referred to in the foregoing decision dated 29/12/17*

E Miller
Housing and Property Chamber
First-tier Tribunal for Scotland



Housing (Scotland) Act 2006: Re-Inspection

Schedule of Photographs

124 Dee Village, Millburn Street, Aberdeen AB11 6SY

Chamber Reference : PRHP/RP/16/0248

Inspection Date: 04/10/2017



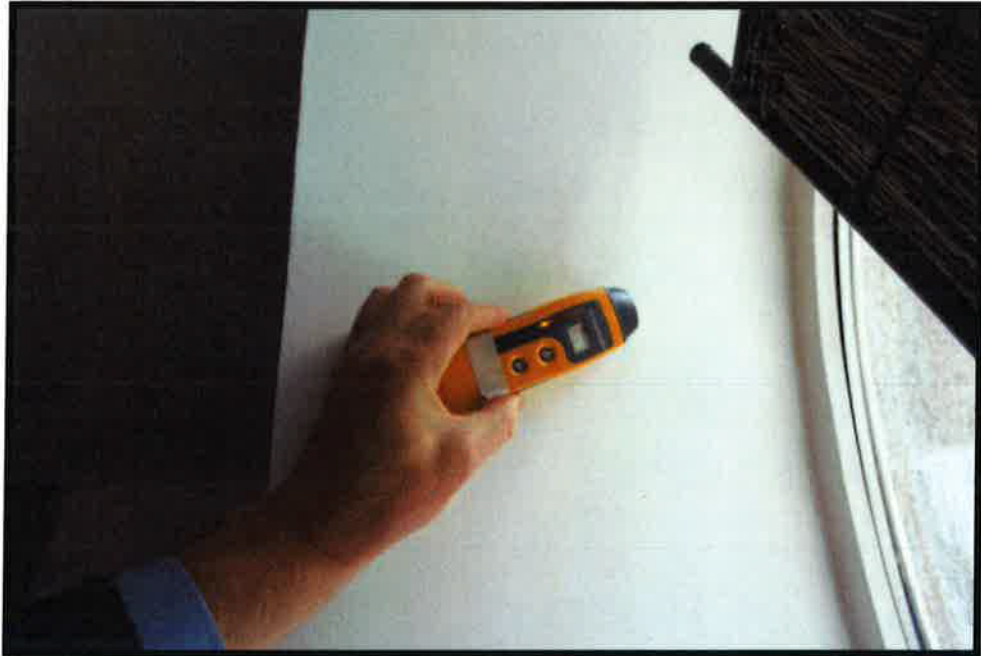
Photograph 1 Front Elevation - Crown Street.



Photograph 2 Rear Elevation.



Photograph 3 Lounge/kitchen window to Crown Street elevation.



Photograph 4 Meter reading (20%), surface left hand side (LHS) lounge/kitchen window.



Photograph 5 Further meter reading (20%) LHS lounge/kitchen window, mid level.



Photograph 6 Meter reading (18%) RHS lounge/kitchen window, mid level.



Photograph 7 Front elevation - Efflorescence to arched window masonry, as before.



Photograph 8 En suite shower room.



Photograph 9 Master bedroom window.



Photograph 10 Meter reading (14%) RHS Master bedroom window.



Photograph 11 Close up of masonry over lounge/kitchen window.