

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/RT/17/12

**33 Woodlands Gardens, Abercrombie Street, Broughty Ferry, Dundee, DD5 2ST
("The Property")**

The Parties:-

DUNDEE CITY COUNCIL, 3 City Square, Dundee, DD1 3BA (represented by Mr Lindsay Watson of the Private Sector Unit, Dundee City Council) ("the Third Party Applicant")

AMANDA FLEMING residing at 33 Woodlands Gardens, Abercrombie Street, Broughty Ferry, Dundee, DD4 2ST ("the Tenant")

KELVIN RIVER PROPERTY ESTATES LIMITED a company incorporated under the Companies Acts (Registered Number SC496000) and having its Registered Office at 6th Floor, Gordon Chambers, 90 Mitchell Street, Glasgow, G1 3NQ (represented by their agent Ms Hazel Young of Rockford Properties) ("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 Landlords had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property concerned and taking account of the subsequent reinspections of the Property, determined that the Landlords 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 7 March 2017, 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 7 March 2017, the RSEO required that the Landlords:-**
 - (a) to replace the oven within the Property;**
 - (b) to provide a working tumble dryer to the Tenant (unless the Tenant confirms in writing that she does not so require a tumble dryer)**

- (c) to replace the lounge window and to carry out works of repair or replacement to the remaining windows within the Property to bring them up to the repairing standard
- (d) to replace the kitchen units, worktops, drawers and cupboards in the kitchen

The RSEO required the Landlords to carry out the required works within a period of 6 weeks from the date of service of the original RSEO.

3. On 5 May 2017 a reinspection of the Property was carried out by Mr Harry Maclean, Ordinary Member of the Tribunal. The Tenant was present and gave access. The Landlords' agent was also present. The windows at the Property had been replaced and were satisfactory. The Tenant had also confirmed that the tumble dryer did not require to be replaced. This left outstanding the replacement of all of the kitchen units together with the replacement of the oven within the kitchen. The Tribunal noted at that stage that the Landlords owned a number of other properties within the development and was carrying out a refurbishment of them all. After discussion the Tribunal was prepared to grant a variation of the RSEO, and give an extension to the period required to carry out the remaining works, of 2 months. A formal variation of the RSEO to this effect was granted on 17 May 2017.
4. On 15 September 2017 Mr Harry Maclean of the Tribunal again attended at the Property and was shown around by the agent Miss Hazel Young. The Tenant was also present. The Tribunal Member noted that the oven had been replaced by a new electric oven. All kitchen units had been completely replaced and new worktops installed. The Tenant had subsequently decided that she did wish a tumble dryer and this had been provided by the Landlords. This was due to be installed in the kitchen shortly after the date of inspection. The Tenant was co-ordinating this work herself and was content with the situation. As noted previously the windows had all been replaced in May 2017.
5. The Tribunal, consisting of Mr E K Miller, Chairman and Legal Member and Mr Harry Maclean, 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 that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act would be granted.

Decision

6. The decision of the Tribunal was to lift the RSEO and grant a Certificate of Completion discharging the RSEO.
7. A copy of the second reinspection report and associated photographs is attached for information.
8. The decision of the Tribunal was unanimous.

Right of Appeal

9. 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

10. 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 Schedule of Photograph and Comparison report referred to in
the foregoing decision*

E Miller

Housing and Property Chamber
First-tier Tribunal for Scotland



Re-inspection Report



Front Elevation – September 2017

HPC Ref: FTS/HPC/RT/17/12

Re: 33 Woodlands Gardens, Abercrombie Street, Broughty Ferry, DD5 2ST

Surveyor Harry J Maclean MSc MRICS MCIOB

Access:

I re-inspected the property at 1000 on 15th September 2017 and was shown around by Ms Hazel Young, the agent from Rockford's and the tenant Ms Amanda Fleming.

The weather was 17 degrees Celsius, dry and bright.

Purpose of the re-inspection:

The purpose of this second re-inspection was to establish whether the repairs directed by the RSEO had been completed and to a satisfactory standard.

The RSEO had previously been issued by HPC Committee Legal member Ewan Miller and Ordinary member Harry Maclean after visiting on 28th February 2017. A further re-inspection took place on the 5th May 2017, but no work had been done to the kitchen at that point.

Under the RSEO, the Committee determined at this time that the landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act").

In particular, the Committee required the Landlord:

1. To replace the defective oven
2. Replace the defective kitchen wall and base units
3. Make arrangement for a tumble dryer
4. Repair or replace windows

On Re-inspection I observed the following;

1. The oven had been replaced by a new Lamona electric oven. This is now completed.
2. The kitchen units had all been completely replaced by new Howden's White Units and new Formica work surfaces. This is now completed.
3. The tenant now has access to a tumble dryer, which is currently on the hallway landing, but is due to be installed properly in the kitchen following the laying of new vinyl flooring to the kitchen during W/C 18th September 2017. The tenant is coordinating this work herself and is content with the situation. This is now completed.
4. The windows have all been replaced in May 2017, as evidenced at the first re-inspection and these are performing well. This is now completed.



New Lamona Oven, hob and extract unit



New Kitchen units



Tumble dryer – to be located in kitchen during W/C 18th September



Lounge and kitchen widows –front elevation - Sept 2017



Bedroom One – Sept 2017



Bedroom Two – Sept 2017

Outstanding matters

All matters requested in the RSEO have been attended to.

Comments

The tenant and landlord agreed privately that the vinyl kitchen floor covering was going to be replaced and the tenant has organised this to take place during Week Commencing 18th September 2017. At this point the tumble drier will be located into its permanent location in the kitchen.

This report will be distributed to the landlord and his representatives for their comment and will be referred afterwards to the Committee of the Housing and Property Chamber for their consideration and further action.

H MacLean

Surveyor Member

Housing and Property Chamber

15th September 2017

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/RT/17/12

Title Number: ANG48154

33 Woodlands Gardens, Abercrombie Street, Broughty Ferry, Dundee, DD5 2ST ("the house")

The Parties:-

DUNDEE CITY COUNCIL, 3 City Square, Dundee, DD1 3BA (represented by Mr Lindsay Watson of the Private Sector Unit, Dundee City Council) ("the Third Party Applicant")

AMANDA FLEMING residing at 33 Woodlands Gardens, Abercrombie Street, Broughty Ferry, Dundee, DD4 2ST ("the Tenant")

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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 7 March 2017, as varied on 17 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 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