

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier tribunal for Scotland under Sections 60 and 27(4) of the Housing (Scotland) Act 2006

Property: 59 Montgomery Street, Falkirk FK2 9BN ("the house")

Title Number: STG6191

Chamber Reference: FTS/HPC/RT/19/2475

Parties:

Falkirk Council Private Sector Team, The Forum, Callendar Business Park, Falkirk FK1 1XR ("Third Party Applicant")

Mr Ian Green, 27 MacFarlane Crescent, Cambuslang, Glasgow G72 7GG ("the Landlord")

Ms Katarzyna Rodzik, 59 Montgomery Street, Falkirk FK2 9BN ("Interested Person")

Tribunal Members – George Clark (Legal Member/Chairperson) and Lori Charles (Ordinary Member/Surveyor)

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 made by the Tribunal on 10 December 2019, determined that the Landlord has now complied with the Order and that a Certificate of Completion of Works to that effect should be issued and that the Rent Relief Order made by the Tribunal on 15 January 2021 should be revoked.

Background

By application, received by the Tribunal on 7 August 2019, the Third Party Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland ("the Tribunal") for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1) of the Housing (Scotland) Act 2006 ("the Act").

The application stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard.

Following an inspection and Hearing held on 10 December 2019, the Tribunal made a Repairing Standard Enforcement Order ("the Order"). The Order required the Landlord to complete the following within a period of six weeks from the date of service of the Order:

1. Install interlinked smoke detectors and a heat detector and carbon monoxide monitor to comply with current Scottish Government Guidelines, ensuring that they are powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.
2. Obtain an Electrical Installation Condition Report (EICR) from a SELECT, NICEIC or NAPIT registered electrician in respect of the property, dated after the date of installation of the smoke and heat detectors and carbon monoxide monitor and undertake any work which is identified in said report to be of Category C1 or C2.
3. Repair or renew the front and back entrance doors to ensure they are wind and watertight
4. Carry out such repairs as are necessary to the vinyl flooring in the kitchen, ensuring that it is in a reasonable state of repair and in proper working order, or to replace it.
5. Carry put such repairs as are necessary to ensure the door of the floor unit in the kitchen opens and closes properly and is fit for purpose.

The Tribunal was unable to gain entry to the house for a reinspection scheduled for 17 March 2020. Thereafter, as a result of COVID-19 restrictions, the Tribunal was unable to inspect the house and, with no way of estimating when that position might change, the Tribunal decided to hold a Case Management Discussion in an effort to progress the case. The Case Management Discussion was held on 15 January 2021, at which the Tribunal was unable to make a finding as to whether Items 1,3,4 and 5 set out in the RSEO had been carried out. It did, however, find that the Landlord had failed to comply with the Order to produce an Electrical Installation Condition Report in respect of the house. The Tribunal therefore made a Failure to Comply Decision, which was intimated to the local authority and to Police Scotland, and a Rent Relief Order.

The Tribunal reinspected the house on the morning of 20 June 2022. Neither the Applicant nor the Respondent was present or represented and the Tribunal Members were admitted to the Property by the Interested Party. A file of photographs, taken at the Reinspection, is attached to and forms part of this Decision.

The Tribunal noted at the Reinspection that there were now interlinked smoke alarms in the living room and hallway and first floor landing and a heat detector in the kitchen. The Interested Party provided the Tribunal with sight of an EICR dated 10 September 2020, issued by Eletracall, Larbert, showing no C1 or C2 items of disrepair, and told the Tribunal that there is no gas supply to the house.

The front and back entrance doors have been renewed and appear to be wind and water-tight, the vinyl flooring in the kitchen has been replaced and the kitchen units have also been completely replaced.

Summary of the issues

The issues to be determined were whether the Landlord had carried out the works required by the Repairing Standard Enforcement Order made on 10 December 2019 and, if so, whether the Rent Relief Order in respect of the Property, made on 15 January 2021, should be revoked.

Reasons for the Decision

The Tribunal determined that the Landlord has complied with the Repairing Standard Enforcement Order and that, in terms of Section 60 of the Act, a Certificate of Completion of Works should be issued. The Tribunal also decided that the Rent Relief Order made in respect of the Property on 15 January 2021, should, in terms of Section 27(4) of the Act, be revoked.

The decision of the Tribunal was unanimous.

Right of Appeal

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.

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.

Clark

Signed Date: 20 June 2022

George Clark, Legal Member/Chairperson

Housing and Property Chamber
First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)
Certificate of Completion of Work: Housing (Scotland) Act 2006
Section 60

Property: 59 Montgomery Street, Falkirk FK2 9BN ("the house")

Title Number: STG6191

Chamber Reference: FTS/HPC/RT/19/2475

Parties:

**Falkirk Council Private Sector Team, The Forum, Callendar Business Park,
Falkirk FK1 1XR ("Third Party Applicant")**

**Mr Ian Green, 27 MacFarlane Crescent, Cambuslang, Glasgow G72 7GG ("the
Landlord")**

**Ms Katarzyna Rodzik, 59 Montgomery Street, Falkirk FK2 9BN ("Interested
Person")**

**Tribunal Members – George Clark (Legal Member/Chairperson) and Lori
Charles (Ordinary Member/Surveyor)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the
Tribunal') hereby certifies that the work required by the Repairing Standard
Enforcement Order relative to the Property made on 10 December 2019, has
been completed. Accordingly, the said Repairing Standard Enforcement
Order relative to the property has been discharged.**

Right of Appeal

**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
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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.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are executed by George Barrie Clark, Legal Member/Chair, at Lasswade on 20 June 2022 before this witness Valerie Elizabeth Jane Clark, Droman House, Lasswade, Midlothian.

Clark

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



Notice of Revocation of Rent Relief Order

Issued by the First-tier Tribunal for Scotland Housing and Property Chamber

Under Section 27(4)(b) of the Housing (Scotland) Act 2006

Property: 59 Montgomery Street, Falkirk FK2 9BN (“the house”)

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**Tribunal Members – George Clark (Legal Member/Chairperson) and Lori
Charles (Ordinary Member/Surveyor)**

NOTICE TO MR IAN GREEN (“the Landlord”)

Considering that the First-tier Tribunal for Scotland Housing and Property Chamber issued a Notice under Section 60 of the Housing (Scotland) Act 2006, dated 20 June 2022, certifying that the work required by the Repairing Standard Enforcement Order relative to the Property made on 10 December 2019, has been completed, therefore in terms of Section 27(4)(b) of the Housing (Scotland) Act 2006 the Committee hereby revokes the Rent Relief Order in relation to the Property made on 15 January 2021 and that with effect from the date specified in Sections 63(4) and (5) of the Housing (Scotland) Act 2006, being 28 days after the last date on which this decision may be appealed.

Right of Appeal

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.

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 typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, Legal Member/Chair at Lasswade on 20 June 2022 before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian:-

Clark