

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) issued under Section 60 of the Housing (Scotland) Act 2006

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

Reference number: FTS/PRHP/RP/15/0012

PCM Property Developments Ltd, having a place of business at 36, Wood Street, Coatbridge ML5 1LY and Top Class Conservatories (Scotland) Limited having an address at Iais Level One 211 Dumbarton Road, Glasgow G11 6AA ("the Landlord")

Re: Property: 1B, Hozier Street, Coatbridge ML5 4DB registered in the Land Register of Scotland under Title Number LAN19855 ("the Property")

Tribunal Members

Karen Moore (Chairperson)

Mike Links (Ordinary Member)

Colin Campbell (Ordinary Member)

Decision

The Tribunal determined that the Landlord has complied with the Repairing Standard Enforcement Order made by the Tribunal (then the Private Rented Housing Committee) dated 29 April 2015 and varied by Order dated 30 July 2015 in relation to the Property.

This Decision should be read in conjunction with:

- i. Statement of Decision and Repairing Standard Enforcement Order ("the RSEO") in respect of the Property both dated 29 April 2015 ;
- ii. Statement of Decision and Variation of RSEO both dated 30 July 2015;
- iii. Statement of Decision of Failure to Comply with RSEO dated 11 May 2016
- iv. Statement of Decision of refusal to grant certificate in terms of Section 60 of the Housing (Scotland) Act 2006 dated 16 November 2016 and
- v. Statement of Decision of refusal to grant certificate in terms of Section 60 of the Housing (Scotland) Act 2006 dated 28 January 2021

Background

1. By application dated 11 January 2015 and signed by the then tenant (“the Application”), the Tenant applied to the Private Rented Housing Panel now the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for a determination that the Landlord had failed to comply with the duty imposed on them by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Section 13 (1) of the Act.
2. Following an Inspection and Hearing on 21 April 2015, a Committee of the Private Rented Housing Panel (“the Committee”) determined that the Landlord had failed to comply with the duty imposed on them by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property did not meet the Repairing Standard in respect of Section 13 (1) of the Act and imposed a Repairing Standard Enforcement Order dated 29 April 2015 (“the RSEO”). The Committee, on 30 July 2015, varied the time for completion of the works required by the RSEO. Thereafter, on 11 May 2016, the Committee made a finding of failure to comply with the RSEO as varied and on 16 November 2016 made a determination not to grant a certificate of completion of works in terms of Section 60 of the Act.
3. By email dated 22 October 2020, Mr. Paul Murtagh and Mrs. Jillian Murtagh, on behalf of the Landlord, wrote to the Tribunal advising that the works had been completed and asked that the Property be re-inspected. The Tribunal administration advised the Landlord that, given the nature of this matter a re-inspection would be required but due to the continuing effects of the COVID-19 pandemic, a re-inspection was not possible at that time. In the circumstances, a CMD was arranged for 22 January 2021 at 10.00 by telephone conference call in order to discuss further procedure in the case after which CMD the Tribunal again determined to refuse to grant a certificate of completion of works in terms of Section 60 of the Act.

Re-Inspection

4. Further information and documentation was submitted on behalf of the Landlord and, as COVID-19 compliant inspections were possible, a Re-Inspection of the Property was arranged for and took place on 14 June 2021. The Re-Inspection was attended by the Surveyor Member, the Legal Member and Mrs. Murtagh of the Landlord. The Re-Inspection Report found that the works required by the RSEO as varied had been complied with to the extent that the Property met the Repairing Standard. The Re-Inspection Report was issued to the Landlord who agreed with the contents.

Summary of the Issues

5. The issue to be determined by the Tribunal is whether or not to grant a Certificate of Completion in terms of Section 60 of the Act.

Matter for determination by the Tribunal.

6. The matter before the Tribunal was how to proceed further in respect of the Landlord's compliance or failure to comply with the RSEO as varied.

Decision of the Tribunal and Reasons for the Decision of the Tribunal

7. The Tribunal firstly had regard to the Re-Inspection Report and being satisfied in terms of Section 60(5)(b) of the Act that the works required by the RSEO as varied have been completed and took the view that it could now be satisfied that the RSEO as varied had been complied with and so granted a Certificate of Completion.

8. The decision of the Tribunal is unanimous.

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.

K Moore

Signed

Karen Moore, Chairperson

Date 6 July 2021

Housing and Property Chamber First-tier Tribunal for Scotland



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

Reference number: FTS/PRHP/RP/15/0012

PCM Property Developments Ltd, having a place of business at 36, Wood Street, Coatbridge ML5 1LY and Top Class Conservatories (Scotland) Limited having an address at Iais Level One 211 Dumbarton Road, Glasgow G11 6AA. ("the Landlord")
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Mike Links (Ordinary Member)

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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) in respect of the Property dated 29 April 2015 and varied on 30 July 2015 has now been completed fully and so the Tribunal discharges the said RSEO.

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 are signed by Karen Moore, solicitor, Glasgow, chairperson of the Tribunal, at Glasgow on 6 July 2021 before this witness Norman William Moore, solicitor of 1A, South Muirhead Road, Cumbernauld G67 1AX

K Moore