

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

Chamber Ref: FTS/HPC/RP/19/2973

3 North Burnside, Cupar, Fife KY15 4BQ
("The Property")

Title No: FFE22570

The Parties:-

Mr Harry Moffat, formerly residing at 3 North Burnside, Cupar, Fife KY15 4BQ
("the Tenant")

Dalglan (No 1008) limited and Mr David Headen, Harvest Moon, Burnside,
Tayport, Fife DD6 9PB
("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** relative to the Property served on 12 February 2020 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

In witness whereof these presents type written on this and the preceding page(s) are executed by Graham Harding, solicitor, 20 York Street, Glasgow, chairperson of the tribunal at Perth on 22 September 2022 before this witness:-

Julia N. Harding witness [Signature] Chairperson
JULIA NICOLA HARDING name in full
46 Almond View Address
Perth

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision on Application for Review and Compliance with Repairing Standard Enforcement Order: First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 Rule 39 and Housing (Scotland) Act 2006 Section 60

Chamber Ref: FTS/HPC/RP/19/2973

**3 North Burnside, Cupar, Fife KY15 4BQ
("The Property")**

Title No: FFE22570

The Parties:-

**Mr Harry Moffat, formerly residing at 3 North Burnside, Cupar, Fife KY15 4BQ
("the Tenant")**

**Dalglan (No 1008) limited and Mr David Headen, Harvest Moon, Burnside, Tayport, Fife DD6 9PB
("the Landlord")**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') having considered the application for a review of the Tribunal's decision of 19 May 2022 recalls said decision and having taken account of the findings of the re-inspection on 2 July 2021, the documentation received from the Landlord and the new owner of the property Ms Liana Steven, together with the reasons for the Decision of the Tribunal and the Repairing Standard Enforcement Order served on the Landlord and dated 12 February 2020 determined that the Landlord has complied with the said Repairing Standard Enforcement Order.

Background

- 1. Reference is made to the determination of the Tribunal dated 12 February 2020 which determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the 2006 Act in that it had failed to ensure that the property met the repairing standard. The Tribunal therefore imposed a RSEO. The works required by the RSEO were:-**

- (a) To provide an Electrical Installation Condition Report by a qualified electrical contractor registered with SELECT or NICEIC or NAPIT dated after the date of this order and confirming that the electrical installations in the property meet the current standards.
- (b) To install smoke detectors in all rooms and circulation areas except bathrooms. These must all be mains wired, interlinked to existing smoke and heat detectors and certified by a competent electrical contractor registered with SELECT or NICEIC.
- (c) To provide a current Gas Safety Certificate by a suitably qualified gas engineer dated after the date of this order.
- (d) To replace the floors throughout the property.
- (e) To make good the walls and ceilings throughout the property.
- (f) To replace the skirting boards throughout the property.
- (g) To liaise with the owner of the upper flat to replace the rotten ceiling joist in the second bedroom of the property.
- (h) To remove the glass door in the front room of the property and replace with a wooden frame and plasterboard.
- (i) To reinstate the bathroom fittings into a reasonable state of repair and in proper working order.
- (j) To reinstate the kitchen including the oven and hob into a reasonable state of repair and proper working order.
- (k) To repair or replace the front door and put into a reasonable state of repair and proper working order.
- (l) To carry out such redecoration as may be required once the works have been completed.

The Tribunal required the works be completed within a period of 3 months from the date of service of the RSEO.

2. On 2 July 2021 the Tribunal carried out a re-inspection of the property. Mr Headen of the Landlord company was present and allowed access. Mr Headen undertook to provide the Tribunal with a current Electrical Installation Condition Report ("EICR").
3. The findings of the re-inspection were issued to the Landlord following the re-inspection.

4. Despite providing an undertaking to the tribunal to provide an EICR the Landlord failed to produce it.
5. Following correspondence between the Tribunal administration and the Landlord's representatives the Tribunal by email dated 28 February 2022 granted the Landlord further time to submit the EICR.
6. The Landlord still did not provide the EICR. The Tribunal administration in a letter dated 31 March 2022 wrote to the Landlord advising that if the EICR was not submitted within 14 days it was the Tribunal's intention to consider issuing a failure to comply decision. There was no response to this letter.
7. As a result the Tribunal issued a Failure to comply Decision dated 19 May 2022.
8. By letter dated 8 June 2022 the Landlord's representatives, Williams Gray Williams, Solicitors, Cupar, requested a review of the decision on the grounds that the Landlord had provided the required EICR. Following further correspondence between the Tribunal administration and the Landlord's representatives there was still a query as to the date of the EICR.
9. By letter dated 28 June 2022 the Landlord's representative sought permission to appeal the Tribunal's decision to the Upper Tribunal.
10. By email dated 22 July the new owner of the property Ms Liana Steven advised the Tribunal that she had purchased the property and wished to have the RSEO discharged.
11. Following correspondence between the Tribunal administration and Ms Steven the Tribunal received by email dated 31 August 2022 an EICR dated 31 August 2022 and a Gas Safety Certificate dated 8 August 2022.

Findings in Fact

12. The Tribunal has had sight of an acceptable EICR.
13. The Tribunal has had sight of an acceptable Gas Safety Certificate.
14. Interlinked smoke and heat detectors have been installed in the property.
15. The floors have been replaced throughout the property.
16. The walls and ceilings have been made good throughout the property.
17. The skirting boards throughout the property have been replaced.
18. The ceiling joist in the second bedroom has been replaced.
19. The glass door in the front room has been removed and replaced with a wooden frame and plasterboard.

20. A new bathroom has been installed.
21. A new kitchen with new oven and hob has been installed.
22. A new front door has been installed.
23. The property has been redecorated.
24. The property meets the repairing standard.

Reasons for Decision

25. Reference is made to the full terms of (i) the Decision of the Tribunal and (ii) the Repairing Standard Enforcement Order ("RSEO") both served on the Landlord and dated 12 February 2020.
26. Following the re-inspection of the property on 2 July 2021 by the Tribunal it appeared that all of the works specified in the RSEO had been completed and the only outstanding matter was the provision of an up-to-date EICR. It was unfortunate that this proved to be difficult to obtain and led to significant delay. However, following the intervention of firstly the Landlord's representatives and subsequently the new owner of the property Ms Steven the Tribunal was satisfied with the terms of the EICR provided. The Tribunal therefore decided to recall its decision of 19 May 2022 and to issue a Certificate of Completion in terms of Section 60 of the 2006 Act on that basis. As the decision of 19 May 2022 has been recalled there is no need for the Tribunal to consider the Landlord's representatives application for permission to appeal that decision to the Upper Tribunal.

Decision

27. The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') having considered the application for a review of the Tribunal's decision of 19 May 2022 recalls said decision and having taken account of the findings of the re-inspection on 2 July 2021, the documentation received from the Landlord and the new owner of the property Ms Liana Steven, together with the reasons for the Decision of the Tribunal and the Repairing Standard Enforcement Order served on the Landlord and dated 12 February 2020 determined that the Landlord has complied with the said Repairing Standard Enforcement Order.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only 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.

Graham Harding
Legal Member

22 September 2022
Date