

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/RP/17/0441

Title no/Sasines Description: Land Register Title number MID73499

**16 Clermiston Grove, Edinburgh, EH4 7DE
("The House")**

The Parties:-

**Ms Veena Shepherd or James, residing at 83 Arden Street, Coventry, West Midlands, CV5 6FB, formerly residing at 37 Belmont Avenue, Breaston, Derby, DE72 3AA and 1F2, 95 East Claremont Street, Edinburgh
("the Landlord")**

**Orchard and Shipman, 2 Anderson Place, Sugar Bond, Third Floor, Edinburgh, EH6 5NP
("the Landlord's Representative")**

Tribunal members:

**Susanne Tanner Q.C., Legal Member and Chairperson
Mike Links, Ordinary Member**

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 House, dated 26 February 2018, 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 Susanne L M Tanner, Queen's Counsel, legal member of the Tribunal,

at Glasgow (place)
on 26 October 2018 (date)

in the presence of the undernoted witness:-

S Tanner

Susanne L M Tanner, Q.C.
Legal member

A Thomson

_____ witness

ABIGAIL THOMSON name in full

GLASGOW TRIBUNALS CENTRE address

20 YORK STREET, GLASGOW

G2 8GT

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”)

DECISION: Housing (Scotland) Act 2006 (“the 2006 Act”), Section 60

Chamber Ref: FTS/HPC/RP/17/0441

Title no/Sasines Description: Land Register Title number MID73499

**16 Clermiston Grove, Edinburgh, EH4 7DE
 (“The House”)**

The Parties:-

**Ms Veena Shepherd or James, residing at 83 Arden Street, Coventry, West Midlands, CV5 6FB, formerly residing at 37 Belmont Avenue, Breaston, Derby, DE72 3AA and 1F2, 95 East Claremont Street, Edinburgh
 (“the Landlord”)**

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Tribunal members:

**Susanne Tanner Q.C., Legal Member and Chairperson
 Mike Links, Ordinary Member**

DECISION

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’), having taken account of the findings of the second re-inspection on 14 September 2018 and the written submissions and evidence submitted by the Landlord, determined that the Landlord has complied with the Repairing Standard Enforcement Order dated 26 February 2018, albeit not in the specified time period.

2. The tribunal issued a Certificate of Completion in terms of Section 60 of the Housing Scotland Act 2006 (hereinafter “the 2006 Act”).
3. The decision of the tribunal was unanimous.

STATEMENT OF REASONS

4. Findings-in-fact

- 4.1. The Landlord has investigated the cause of the dampness within the flooring area adjacent to the W.C. in the bathroom.
- 4.2. The Landlord has carried out all necessary repairs and/or renewals in order that the House is watertight and reasonably fit for human habitation.
- 4.3. The Landlord has provided a written report as to the works on the pipework for the sewage and drainage system at the House, including any findings and recommendations.
- 4.4. The Landlord has put into effect recommendations in the written report on the pipework to ensure that the house is watertight and reasonably fit for human habitation.

5. Findings in law

- 5.1. The House meets the repairing standard as specified in Section 13 of the 2006 Act.

6. Reasons

- 6.1. On 26 February 2018 the tribunal issued a Decision in terms of Section 24(1) of the 2006 Act and made a Repairing Standard Enforcement Order (“RSEO”), requiring the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard in Section 13 of the 2006 Act and that any damage caused by the carrying out of any work in terms of the RSEO is made good. In particular the tribunal required the Landlord:
 - 6.1.1. To investigate the cause of the dampness within the flooring area adjacent to the W.C. in the bathroom and carry out all necessary repairs and/or renewals in order that the House is watertight and reasonably fit for human habitation.

- 6.1.2. To provide a written report as to the works on the pipework for the sewage and drainage system at the House, including any findings and recommendations; and to put into effect any recommendations to ensure that the house is watertight and reasonably fit for human habitation.
- 6.1.3. The tribunal ordered that the works specified in the RSEO had to be carried out and completed within 30 days from the date of service of the RSEO.
- 6.2. On 14 June 2018, following a re-inspection and consideration of submissions from parties, the tribunal decided that the Landlord had failed to comply with the Repairing Standard Enforcement Order dated 26 February 2018, in terms of Section 26(1) of the 2006 Act. The tribunal served notice of the failure on the local authority as required by Section 26(2)(a) of the 2006 Act. The tribunal made a Rent Relief Order in terms of section 26(2)(b) of the 2006 Act.
- 6.3. On or about 16 August 2018 the tenant moved out of the House when the tenancy was lawfully terminated and she was therefore treated as having withdrawn the Application. The tribunal continued its enforcement of the RSEO in terms of paragraph 7 of Schedule 2 of the 2006 Act.
- 6.4. On 10 September 2018 the Landlord submitted a report and accompanying photographs from Alba Property Services, Edinburgh, dated 6 September 2018. The report indicated that it had been identified that the House was damp due to defective pipework at the toilet. Extensive repairs to both the shower room and bedroom floors were undertaken in the period from 20 August 2018 to 6 September 2018. The contractor confirmed in its report that all defects had been remedied.
- 6.5. On 10 September 2018, the Landlord confirmed that the Landlord's Representative would provide access for the second re-inspection on 14 September 2018.
- 6.6. On 14 September 2018 the Landlord submitted a report from Drain Point dated 18 April 2018 which indicated that in December 2017 defects in the drainage system had been identified and advice had been provided to the Landlord as to the steps required to remedy the defects. The contractor further specified the works which were undertaken by them between December 2017 and February 2018 and confirmed that all of the recommended works had been completed and surveyed.
- 6.7. On 14 September 2018, a second re-inspection of the House took place and a re-inspection Report dated 15 September 2018 was prepared, which is

referred to for its full terms. At the time of the second re-inspection there were no signs of dampness in the House and all works specified in the RSEO had been completed.

6.8. The second re-inspection report dated 15 September 2018 was sent to parties and they were invited to submit written representations.

6.9. On 20 September 2018 the Landlord indicated that she agreed with the findings of the re-inspection Report and stated that she did not wish to attend a hearing and understood that the tribunal would reach a decision based on written representations, without a hearing.

6.10. Although the time limit for completing the works specified in the order had expired the tribunal is satisfied, having considered the evidence and written representations submitted by the Landlord, and the findings on re-inspection on 14 September 2018, that the works in the RSEO have been completed.

6.11. The tribunal therefore decided to issue a Certificate of Completion in terms of Section 60 of the 2006 Act.

7. Right of Appeal

7.1. 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.

7.2. 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.

S Tanner

Signed
Chairperson of the tribunal

.....Susanne L M Tanner, Queen's Counsel

Date 25 October 2018