

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: PRHP/RP/13/0007

Title no/Sasines Description:

All and Whole the dwelling house known as 9 Faulds Road, Montrose DD10 8PR as more particularly described in Land Certificate Title Number ANG7013 (hereinafter referred to as "the Property")

The Parties:-

Gary Stewart, 9 Faulds Road, Montrose, DD10 8PR (hereinafter referred to as "the Tenant")

Esther Jane Fraser Davidson, c/o Richard Davidson, Flat 41, Bartholomew Court, Bartholomew Street, Newbury RG14 5HF (hereinafter referred to as "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 dated 1 August 2013 (as varied) 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 are executed by John Miller McHugh, solicitor, 65 Haymarket Terrace, Edinburgh, Chairing Member of the Tribunal at Edinburgh on 2 July 2019 before this witness:-

R Mconnell

J McHugh

\_\_\_\_\_ witness \_\_\_\_\_ Chairing Member

ROBERT MCCONNELL name in full

65 HAYMARKET TERRACE Address

EDINBURGH EH12 5DB

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Sections 25(1) and 60**

**Chamber Ref: PRHP/RP/13/0007**

**Property at 9 Faulds Road, Montrose DD10 8PR (hereinafter referred to as "the House")**

**Gary Stewart, 9 Faulds Road, Montrose, DD10 8PR (hereinafter referred to as "the Tenant")**

**Esther Jane Fraser Davidson, c/o Richard Davidson, Flat 41,  
Bartholomew Court, Bartholomew Street, Newbury RG14 5HF  
(hereinafter referred to as "the Landlord")**

### **Tribunal Members**

John McHugh, Chairperson  
David Godfrey, Ordinary (Surveyor) Member  
Helen Barclay, Ordinary (Housing) Member

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined as follows:**

- (1) To vary the Repairing Standard Enforcement Order dated 1 August 2013 ("the RSEO") by removing requirement no.2 thereof (the requirement to "obtain a certificate from a qualified electrician that the electrical installations in the House are in safe working order and to produce a copy of same").**
- (2) that the work required by the RSEO had been completed and resolved to issue a Certificate of Completion of Work.**

The decision was unanimous.

## **Background**

On 1 August 2013 the Tribunal's predecessor, the Homeowner Housing Committee, made an RSEO requiring the following matters to be addressed by the Landlord within 28 days:

- 1 To obtain a Landlords Gas Safety Certificate from a Gas Safe registered engineer confirming that the gas fire in the living room is in safe working order and to produce a copy of same to the Committee.
- 2 To obtain a certificate from a qualified electrician that the electrical installations in the House are in safe working order and to produce a copy of same to the Committee.
- 3 To ensure that all lights, electrical sockets, switches and cabling are in proper working order and that all electrical sockets and switches are properly affixed to the walls/ceilings as appropriate.
- 4 To ensure that the central heating thermostat located in the hall is properly affixed to the wall.
- 5 To replace the door to the coal cellar/gas meter storage cupboard.
- 6 To replace the garage removed by the Landlord.
- 7 To repair all rotten flooring in the bathroom including the hole behind the toilet.
- 8 To repair the toilet cistern so that it no longer leaks.
- 9 To replace all missing window handles.
- 10 To ensure that all windows designed to do so are capable of being opened and securely closed.

A re-inspection was carried out by the Committee's surveyor member on 25 October 2013. This found that a number of matters contained in the RSEO had been addressed.

However, the following requirements of the RSEO remained outstanding:

1. To obtain a Landlords Gas Safety Certificate from a Gas Safe registered engineer confirming that the gas fire in the living room is in safe working order and to produce a copy of same to the Committee.

2. To obtain a certificate from a qualified electrician that the electrical installations in the House are in safe working order and to produce a copy of same to the Committee.
3. To ensure that all lights, electrical sockets, switches and cabling are in proper working order and that all electrical sockets and switches are properly affixed to the walls/ceilings as appropriate.
4. To replace all missing window handles.
5. To ensure that all windows designed to do so are capable of being opened and securely closed.

The Landlord's agent, Mr Davidson, by email of 4 December 2013, indicated that he did not intend to carry out any further works in compliance with the RSEO.

On 23 December 2013 the Committee varied the RSEO in so far as it required replacement of the garage. It also varied the order by allowing the Landlord a further period during which to complete the works required by the RSEO.

On 19 February 2014, Mr Davidson was asked to confirm whether the remaining works required to comply with the RSEO had been completed but failed to do so. Access for a further re-inspection was not provided.

There being no evidence that any works had been completed since the re-inspection on 25 October 2013, the Committee determined on 20 March 2014 that there had been a failure to comply with the RSEO.

On 4 June 2019, at the request of the new proprietors of the House, the Tribunal re-inspected the House and made the following findings:

1. The windows throughout the House have been replaced.
2. Although not tested, where seen, the lights, electrical sockets, switches and cabling appear to be in proper working order and are properly affixed to the walls/ceilings as appropriate.

A copy of the Surveyor Member's Report is attached.

### **Reasons for the Decision**

The Tribunal found that the House was in generally good condition having been extensively improved by the new proprietors of the Property, Allan Mackenzie and Morag Good. The Tribunal accepted Mr MacKenzie's representations at the inspection on 4 June 2019 that the Property was in use only as a private dwelling and that there was no intention to let the property in future.

Having regard to the apparent condition of the electrical installations and the absence of any letting activity, the Tribunal consider that, having regard to section 25(1), variation of the order by removal of the requirement to obtain an electrical safety certificate is reasonable.

The works required by the RSEO are otherwise complete.

## 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.

Signed J McHugh  
.....  
John McHugh

Date .....2 July 2019.....

Chairperson

# Housing and Property Chamber First-tier Tribunal for Scotland



## REINSPECTION REPORT



**Property:** 9 FAULDS ROAD, MONTROSE, ANGUS DD10 8PR

**Ref no:** PRHP/RP/13/0007

**Tribunal:** John McHugh, David Godfrey and Helen Barclay.

**Inspection:** The property was inspected at 10.00 am Tuesday 4th June 2019.

**Access:** The original tenant Mr Gary Stewart no longer resides in the property and was neither present nor represented.

The property has been sold since the date of the original inspection and access to the property was provided by the new owner Mr Allan McKenzie.

### **Repairing Standard Enforcement Order:**

*In particular, the Committee requires the Landlord:*

- 1. To obtain a Landlords Gas Safety Certificate from a Gas Safe registered engineer confirming that the gas fire in the living room is in safe working order and to produce a copy of same to the Committee.*
- 2. To obtain a certificate from a qualified electrician that the electrical installations in the House are in safe working order and to produce a copy of same to the Committee.*
- 3. To ensure that all lights, electrical sockets, switches and cabling are in proper working order and that all electrical sockets and switches are properly affixed to the walls/ceilings as appropriate.*

4. *To ensure that the central heating thermostat located in the hall is properly affixed to the wall.*
5. *To replace the door to the coal cellar/gas meter storage cupboard.*
6. *To replace the garage removed by the Landlord.*
7. *To repair all rotten flooring in the bathroom including the hole behind the toilet.*
8. *To repair the toilet cistern so that it no longer leaks.*
9. *To replace all missing window handles.*
10. *To ensure that all windows designed to do so are capable of being opened and securely closed.*

*The Committee order that the works specified in this Order must be carried out and completed within 28 days from the date of service of this Notice.*

**General Remarks:**

The property was previously reinspected on Friday 25<sup>th</sup> October 2013 and on that date the following items had been completed:

1. A Landlords Gas Safety Certificate had been provided by the Landlord.
2. The central heating thermostat had been properly affixed to the wall.
3. The door to the coal cellar/gas meter storage cupboard had been replaced.
4. The rotted flooring in the Bathroom had been replaced and the toilet cistern (and entire bathroom suite) had been replaced.

**Works in Repairing Standard Enforcement Order which have been completed since the first reinspection:**

1. Although not tested, where seen the lights, electrical sockets, switches and cabling appear to be in proper working order and are properly affixed to the walls/ceilings as appropriate.
2. The windows throughout the property have been replaced.

**Works in Repairing Standard Enforcement Order outstanding following second reinspection:**

1. A certificate from a qualified electrician confirming that the electrical installations in the House are in safe working order has yet to be produced.
2. The garage has not been replaced however the Repairing Standard Enforcement Order was varied in December 2013 thereby removing the requirement to erect a garage.



## Photographs



Front elevation showing replacement windows



Rear elevation showing replacement windows



Replacement window detail.



Refitted Kitchen



Replacement central heating boiler

David Godfrey  
4<sup>th</sup> June 2019