

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/17/0301

Title no/Sasines Description: LAN 23136

128A Crawford Street, Motherwell, ML1 3BN ("the House")

The Parties:-

Mrs Catherine McGregor, formerly residing at the House and now treated as having withdrawn her Application ("the Tenant")

Mr Gerard Francis Ross (otherwise known as Gary Ross), 61 Hamilton Road, Motherwell, ML1 3DG; 31 Merry Street, Motherwell, ML1 1JJ ("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 House dated 7 January 2018 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the House 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 are executed by Nicola Weir, Legal Member of the Tribunal, at Glasgow, on 26 June 2018 in the presence of the undernoted witness:-

D Weir

N Weir

witness

Legal Member

D Weir

name in full

Address

90 2nd Floor
TRING, HP23 4LN

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: FTS/HPC/RP/17/0301

Title no/Sasines Description: LAN 23136

128A Crawford Street, Motherwell, ML1 3BN ("the House")

The Parties:-

Mrs Catherine McGregor, formerly residing at the House and now treated as having withdrawn her Application ("the Tenant")

Mr Gerard Francis Ross (otherwise known as Gary Ross), 61 Hamilton Road, Motherwell, ML1 3DG; 31 Merry Street, Motherwell, ML1 1JJ ("the Landlord")

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 (RSEO) relative to the House dated 7 January 2018 determined that the Landlord has complied with the RSEO and that a Certificate of Completion to that effect should be issued.

The Tribunal comprised:-

Nicola Weir, Legal Member

Debbie Scott, Ordinary Member

Background

1. By Application received on 1 August 2017, the Tenant applied to the Tribunal for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"). The Application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard. In particular, the Tenant stated as follows:-
"1) No electrical installations condition report

- 2) No gas safety certificate
- 3) Smoke alarms do not meet the current legal standard
- 4) Carbon Monoxide detectors out of date
- 5) Plug socket in kitchen has scorched
- 6) Toilet doesn't flush properly
- 7) Light fitting in bedroom
- 8) Decoration finish due to previous water leak".

The Application was signed on behalf of the Tenant by Marianne McGregor, whose details were provided in the Application as the Tenant's representative. Apart from the application form, the Tenant also submitted as part of her Application some tenancy documentation, including a copy AT5 Form and a copy Short Assured Tenancy Agreement, and a copy handwritten letter which appeared to be to the Tenant concerning repairs to the House. The Tenant was asked to stipulate which elements of the Repairing Standard she thought the Landlord had failed to comply with and to provide proof that she had notified the Landlord of the repairs required. This was submitted by the Tenant on 24 August 2017. She stipulated that she thought the Landlord had failed to comply with all elements of the Repairing Standard.

2. On 12 September 2017, a Convener of the Tribunal, acting under delegated powers in terms of 23A of the Act made a decision to refer the Application, under section 23(1) of the Act, to a Tribunal. Notice of Referral in terms of Schedule 2, Paragraph 1 of the Act was served upon both the Landlord and the Tenant by letters dated 26 September 2017.
3. Following service of the Notice of Referral, no written representations were submitted by either party and neither party indicated that they would be attending the Hearing.
4. On 13 October 2017 the Landlord's agents, Ness Gallagher solicitors, submitted a letter by fax (followed by Recorded Delivery), advising that the Tenant had left the House at the end of August 2017, that she had not permitted access to the House to the Landlord for the purpose of repairs, that the Landlord was not intending to re-let the House and requesting that the Application be disposed of. Due to an administrative error, this letter was not circulated to the Tribunal until 26 October 2017. On 27 October 2017, the Tribunal Administration verified with the Tenant's representative that the Tenant had indeed vacated the House at the end of August 2017. Accordingly, in terms of Schedule 2 Paragraph 7(1) of the Act, the Tenant was treated as having withdrawn her Application. The Tribunal then considered whether the Application should be determined or abandoned, in terms of Schedule 2, Paragraph 7(3) of the Act. Having carefully considered the matter, the Tribunal decided that the Application should be continued for determination as it contained matters which raised health and safety issues for any future tenants. A Minute for Continuation to a Determination was issued by the Tribunal dated 27 October 2017. The Landlord's agents then submitted a request for an adjournment of the Inspection and Hearing, due to take place on 30

October 2017. In the circumstances, the Tribunal considered that there was good reason to adjourn the Inspection and Hearing. The Inspection and Hearing were rescheduled to take place on 11 December 2017. Notification was sent to the Landlord and his agents of this on 14 November 2017.

5. The Tribunal inspected the house on the morning of 11 December 2017. The Landlord provided access to the House and was present during the Inspection.
6. Following the inspection of the house, the Tribunal held a Hearing at Wellington House, 134-136 Wellington Street, Glasgow, G2 2XL. No party attended the Hearing.
7. Following the Hearing, the Tribunal proceeded to make a Repairing Standard Enforcement Order (RSEO) in relation to the House dated 7 January 2018. In terms of the RSEO, the Landlord was required (1) To submit to the Tribunal an up to date and satisfactory Gas Safety Record from a Gas Safe registered engineer in relation to the House; (2) To submit to the Tribunal an up to date and satisfactory Electrical Installation Condition Report (EICR) in respect of the installations in the House for the supply of electricity and the electrical fixtures and fittings and a Portable Appliance Test (PAT) in respect of portable electrical appliances (if any) from a suitably qualified and registered SELECT or NICEIC electrical contractor; (3) To repair or, as necessary, replace the toilet flush to ensure that it is in a reasonable state of repair and in proper working order; (4) To install hard-wired and interlinked smoke alarms in the living room and hallway and a heat alarm in the kitchen to ensure that there is satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and (5) To install a carbon monoxide (CO) detection system to ensure that the House has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. The Landlord was required to complete the work within a period of 4 weeks from the date of service of the RSEO.
8. On 16 March 2018, the Ordinary Member of the Tribunal carried out a Re-inspection of the House. A copy of her Re-inspection Report dated 19 March 2018 is attached to this Decision and executed as relative hereto. In terms of the RSEO, the only matter remaining outstanding at Re-inspection was that an EICR had not been produced. The Landlord indicated at Re-inspection that this would be emailed in to the Tribunal.
9. Following circulation of the Re-inspection Report, on 29 March 2018, the Landlord re-submitted an email dated 16 March 2018 that he had submitted to the Tribunal previously, attaching an EICR dated August 2017. It was noted by the Tribunal that the previous email had been sent by the Landlord to an incorrect email address and had not been received by the Tribunal. It was also noted by the Tribunal that the EICR attached was not from an electrician registered with NICEIC or SELECT and was not therefore satisfactory. This was communicated to the Landlord. The

Landlord subsequently, on 8 May 2018, emailed the Tribunal two photographs which appeared to show two separate pages of a different EICR. The first page did not provide the electrician's details and was not signed or dated and, in any event, all pages of the EICR were not produced. Accordingly, this was again not satisfactory to the Tribunal and this was communicated to the Landlord. The Landlord's solicitor emailed the Tribunal on 18 May 2018, seeking clarification as to what was required. The Tribunal responded. On 4 June 2018, the Landlord emailed the Tribunal an EICR in respect of the House dated May 2018. The Tribunal noted that this EICR was complete and satisfactory in its terms.

10. The Tribunal considered the terms of the Re-inspection Report dated 19 March 2018 and the written representations and other documentation submitted to the Tribunal by the Landlord since. In terms of Rule 18 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017, as amended, the Tribunal, having regard to the facts not disputed by the parties was of the view that it was able to make sufficient findings to determine the case without having a further Hearing. The Tribunal considered that to do so would not be contrary to the interests of the parties. The Tribunal accordingly proceeded to make their decision.

Reasons for decision

11. The Tribunal was satisfied from the findings on Re-inspection and from careful consideration of the documentation submitted by the Landlord, all as referred to above, that all works required in terms of the RSEO had been completed and that the RSEO had accordingly been complied with by the Landlord. Accordingly, the Tribunal was of the view that a Certificate of Completion to that effect should now be issued.

Decision

12. The Tribunal determined that the Landlord had complied with the RSEO and that a Certificate of Completion to that effect should be issued.

13. The decision of the Tribunal was unanimous .

Right of Appeal

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.

N Weir

Signed..... Date: 26 June 2018
Nicola Weir, Legal Member of the Tribunal

Glasgow, 26 June 2018

*This is the Re-inspection Report referred to in the
Statement of Decision of even date herewith.
Neil, Legal Member of Tribunal*

Housing and Property Chamber First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) Housing (Scotland) Act 2006 Property Re-inspection Report



Date of re-inspection: 16th March 2018

Chamber Reference Number: FTS-HPC-RP-17-0301

Property address: 128A Crawford Street, Motherwell, ML1 3BN

Surveyor: Mrs D Scott, MRICS

Circumstances of inspection: Weather was fair and cold. The property was vacant at the re-inspection.

In attendance: Mr Gerard Francis Ross (Known as Mr Gary Ross)

Repairing Standard Enforcement Order (RSEO)

An RSEO was served on the Landlord, (Mr Gerard Francis Ross), on (7 January 2018) following an inspection and hearing of the Tribunal on (11 December 2017).

The Landlord was required to carry out the following work under the terms of the RSEO:

- (1) To submit to the Tribunal an up to date and satisfactory Gas Safety Record from a Gas Safe registered engineer in relation to the House.
- (2) To submit to the Tribunal an up to date and satisfactory Electrical Installation Condition Report (EICR) in respect of the installations in the House for the supply of electricity and the electrical fixtures and fittings and a Portable Appliance Test (PAT) in respect of portable electrical appliances (if any) from a suitably qualified and registered SELECT or NICEIC electrical contractor.
- (3) To repair or, as necessary, replace the toilet flush to ensure that it is in a reasonable state of repair and in proper working order.
- (4) To install hard-wired and interlinked smoke alarms in the living room and hallway and a heat alarm in the kitchen to ensure that there is satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
- (5) To install a carbon monoxide (CO) detection system to ensure that the House has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

Completed works

The Landlord has undertaken the following work since the inspection and hearing:

1. A Gas Safety Certificate was presented at the re-inspection. See photograph one below. The engineer is registered on the Gas Safe Register. At the time of the inspection the report states that the CO Alarm was fitted however it was out of date and the alarm did not work. The Landlord stated that subsequent to this report the Electrical Installation Condition Report had been undertaken and this was repaired and noted. During the re-inspection the CO monitor was in position within date and sounded when pressed. See photograph two and three below.
2. At the inspection the Landlord stated that an Electrical Installation Condition Report (EICR) had been undertaken. This was not made available. The landlord stated that the EICR and Portable Appliance Test (PAT) would be emailed to the office. See comments below under outstanding works.

3. The toilet flush appeared to be repaired and was operational at the inspection.
4. A heat and smoke detector have been installed in the Kitchen, with smoke detectors located within the hallway and living room. See photographs below.
5. A carbon monoxide (CO) detection system was installed adjacent to the boiler. See comments under number 1.

Outstanding works

1. An Electrical Installation Condition Report (EICR) has not been presented at the time of writing this report.

This report will be submitted to the relevant parties for their consideration and comment. Once their submissions, if any, have been received, the Tribunal will determine whether the Repairing Standard Enforcement Order has been complied with and what further action is appropriate.

Debbie Scott 19th March 2018

**Schedule of photographs attached to re-inspection report
FTS-HPC-RP-17-0301 128A Crawford Street, Motherwell**

LANDLORD/HOME OWNER GAS SAFETY RECORD

This record must be for gas safety purposes only to comply with the Gas Safety (Installation and Use) Regulations. These rules have important safety and checked. The satisfactory completion of this record is a condition of the Gas Safety Certificate and is a requirement of the Gas Safety (Installation and Use) Regulations.

PROPERTY DETAILS
 Address: 128A Crawford St, Motherwell
 Postcode: ML1 3DN
 Telephone: 01836 222222

REPORTING INSTALLER DETAILS
 Name: Mr. G. G. G. G.
 Address: 128A Crawford St, Motherwell
 Postcode: ML1 3DN
 Telephone: 01836 222222

LANDLORD OR AGENT NAME & ADDRESS
 Name: Mr. G. G. G. G.
 Address: 128A Crawford St, Motherwell
 Postcode: ML1 3DN
 Telephone: 01836 222222

APPLIANCE DETAILS		FLUE TESTS		INSPECTION DETAILS	
Appliance	Test	Test	Test	Test	Test
1. Gas boiler	Pass	Pass	Pass	Pass	Pass
2. Gas boiler	Pass	Pass	Pass	Pass	Pass
3. Gas boiler	Pass	Pass	Pass	Pass	Pass
4. Gas boiler	Pass	Pass	Pass	Pass	Pass
5. Gas boiler	Pass	Pass	Pass	Pass	Pass
6. Gas boiler	Pass	Pass	Pass	Pass	Pass
7. Gas boiler	Pass	Pass	Pass	Pass	Pass
8. Gas boiler	Pass	Pass	Pass	Pass	Pass
9. Gas boiler	Pass	Pass	Pass	Pass	Pass
10. Gas boiler	Pass	Pass	Pass	Pass	Pass

ONE DETAIL OF ANY FAULTS

RECTIFICATION WORK CARRIED OUT

NEXT GAS SAFETY CHECK MUST BE CARRIED OUT WITHIN 12 MONTHS

Signature of Landlord/Agent: [Signature]
 Date: 12/12/17
 Signature of Gas Engineer: [Signature]
 Date: 12/12/17

Gas Safety Certificate



Carbon Monoxide monitor – within date



Carbon Monoxide monitor in position adjacent to boiler



Smoke Detector within the Living Room



Smoke Detector in hallway



Smoke and heat detector located within the kitchen