

# 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/18/0012**

**Land Register Title No: GLA94933**

**Property at 24 Newark Drive, Glasgow, G41 4PZ  
("the Property")**

#### **The Parties:-**

**Dr Catherine Carroll and Mr David Ross, 24 Newark Drive, Glasgow, G41 4PZ  
("the Former Tenants")**

**Prof Michael Fan, 45 Albert Drive, Glasgow, G41 5HJ  
("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 ("RSEO")** relative to the Property dated 20 March 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/

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 are executed by Gillian Coutts Buchanan, Legal Member of the Tribunal, at Dundee on 31 December 2018 in the presence of the undernoted witness:-

M Kemp

G Buchanan

witness

Legal member

Michael Kemp  
c/o Thorntons Law LLP  
Whitehall House  
33 Yeaman Shore  
DUNDEE  
DD1 4BJ



# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 60**

**Chamber Ref: FTS/HPC/RP/18/0012**

**Property at 24 Newark Drive, Glasgow, G41 4PZ  
("the Property")**

**The Parties:-**

**Dr Catherine Carroll and Mr David Ross, 24 Newark Drive, Glasgow, G41 4PZ  
("the Former Tenants")**

**Prof Michael Fan, 45 Albert Drive, Glasgow, G41 5HJ  
("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") in relation to the Property, and taking account the documentation submitted to the tribunal, determined that the Landlord has now complied with the terms of the RSEO and resolved to issue a Certificate of Completion in respect of the works required by the RSEO.**

### **Background**

1. Reference is made to the determination of the tribunal dated 20 March 2018 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that he had failed to ensure that the Property met the repairing standard. The works required by the RSEO were: -
  - (a) (i) Engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and report on the safety, suitability and effectiveness of the gas fired heating and hot water supply installation including boiler, all radiators, valves, programmers and thermostats.  
  
(ii) Follow the recommendations of the report referred to in paragraph (a)(i) above to ensure that the entire system is safe and in proper working order.
  - (b) (i) Engage a suitably qualified engineer to carry out an inspection and report on the safety and effectiveness of the gas hob.  
  
(ii) Follow the recommendations of the report referred to in paragraph (b)(i) above to ensure that the hob is safe and in proper working order.

- (c) On completion of the above works referred to in paragraphs (a) and (b) above provide to the tribunal a valid CP12 Gas Safety Certificate.
- (d) (i) Provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 – Fire, sub-section 2.11 Communication.
- (ii) Engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the entire electrical installation of the property and including testing of the electric shower, and thereafter follow the recommendations of that report to ensure that the entire system is safe and in proper working order.
- (e) On completion of the works referred to in paragraph (d) above to provide to the tribunal a copy of the EICR.
- (f) Replace the damaged w.c suite (pedestal, cistern and seat) so that it is in proper working order.
- (g) Carry out any and all making good and decoration associated with the foregoing works.

The RSEO gave the Landlord 8 weeks to carry out the works.

2. By email dated 24 April 2018 the Landlord sent to the tribunal the following documents:-
  - (a) A Landlord Gas Safety Record dated 13 April 2018 prepared by David Lavelle, 1<sup>st</sup> Call Gas & Electric Limited, 11 Kingscliffe Avenue, Glasgow, G44 4JW; and
  - (b) An EICR dated 13 and 20 April 2018 prepared by David Lavelle, 1<sup>st</sup> Call Gas & Electric Limited, 11 Kingscliffe Avenue, Glasgow, G44 4JW.

The Landlord's email indicated that he would carry out the required works to the w.c. suite and would make good any decoration associated with the RSEO when the Property goes on the market for sale.

3. By emails dated 2, 10 and 16 May 2018 the Landlord purported to challenge the requirement to carry out works to the w.c suite and make good any decoration associated with the works required by the RSEO.
4. By email dated 6 June 2018 the Landlord purported to continue to challenge the terms of the RSEO and purported to seek a "revocation" thereof.
5. On 28 June 2018 the Ordinary (Surveyor) Member of the tribunal, Mr Andrew Taylor, re-inspected the Property on behalf of the tribunal. The Former Tenants were neither present nor represented. The Landlord was not present but was represented by Mr Ewan Blair and Mr Jamie McGregor of Corum Estate Agents.
6. The re-inspection revealed that the following works required in terms of the RSEO had been carried out.

- (a) A suitably qualified gas engineer had inspected and serviced the heating installation and hob and has provided a valid CP12 Gas Safety Certificate.
  - (b) A suitably qualified electrical contractor had tested the electrical installation and provided a valid Electrical Installation Condition Report.
  - (c) The w.c pedestal and set had been replaced and the cistern serviced and the suite was found to be in proper working order.
7. The re-inspection revealed the following works remained outstanding:-
- (a) To provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 – Fire, sub-section 2.11 Communication.
  - (b) Carry out any and all making good and decoration associated with the fitting of the detection and alarms.
8. By emails dated 23 and 25 July and 1 and 14 August 2018 the Landlord continued to challenge the terms of the RSEO and the works required in terms thereof.
9. By decision dated 20 August 2018 tribunal determined that the Landlord had failed to comply with the RSEO and served notice of the failure on the local authority. The tribunal also resolved to report the matter to the Police for consideration for prosecution.
10. The tribunal received intimation by email and letter from the Landlord's representative, Audrey Blair of BTO, Solicitors, Glasgow, dated 11 December 2018 that the outstanding works required in terms of the RSEO had been completed. In particular the tribunal received from the Landlord's representative (i) a copy of an invoice from 1<sup>st</sup> Call Gas & Electric Limited dated 6 December 2018 narrating the supply and fitting of two smoke alarms and one heat alarm hard wired and interlinked, (ii) a "Record of Inspection & Testing" by 1<sup>st</sup> Call Gas & Electric Limited also dated 6 December 2018 recording satisfactory inspection and testing results of the installed alarms, and (iii) various photographs of the alarms.
11. On 18 December 2018 the Ordinary (Surveyor) Member of the tribunal, Mr Andrew Taylor, re-inspected the Property on behalf of the tribunal. The Former Tenants were neither present nor represented. The Landlord was not present but was represented by his son, Mr Alex Fan. The re-inspection revealed that the previously outstanding works narrated in paragraph 7 hereof had been satisfactorily completed. A copy of the Re-inspection Report is attached.

### **Decision**

12. The tribunal carefully considered the evidence and was satisfied that the works required in terms of the RSEO had been completed, that no works were outstanding and that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act should be granted.

The decision of the tribunal was unanimous.

**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.

In witness whereof these presents type written on this and the preceding pages are executed by Gillian Buchanan, Solicitor, First-tier Tribunal for Scotland (Housing and Property Chamber), 3rd Floor, Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT, Chairperson of the tribunal at Dundee on 31 December 2018 before this witness:-

M Kemp

G Buchanan

Witness

\_\_\_\_\_  
Michael Kemp  
c/o Thorntons Law LLP  
Whitehall House  
33 Yeaman Shore  
DUNDEE  
DD1 4BJ

\_\_\_\_\_  
Legal Member & Chairperson