

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**Certificate of Completion of Work: Housing (Scotland) Act 2006 Section 60**

**Property: 7 Townend Road, Kilmarnock KA1 4TD ("the Property")**

**Land Certificate No; AYR49908**

**Chamber Reference: FTS/HPC/RP/18/0391**

**Suzanne Stirrat, residing at 7 Townend Road, Kilmarnock KA1 4TD ("the Tenant")**

**Maconachies of Kilmarnock Limited, incorporated in Scotland under the Companies Acts (SCO32179) and having their Registered Office at 22-26 Campbell Street, Kilmarnock KA1 4HW ("the Landlord")**

**Tribunal Members – George Clark (Legal Member/Chairperson) and Robert Buchan (Ordinary Member/Surveyor)**

**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 made on 10 June 2018 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.**

### **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.

In witness whereof these presents typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the tribunal at Lasswade, Midlothian on 15 November 2018 before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

G Clark

\_\_\_\_\_ chairperson  
V Clark

\_\_\_\_\_ witness

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**Property: 7 Townend Road, Kilmarnock KA1 4TD ("the Property")**

**Chamber Reference: FTS/HPC/RP/18/0391**

**Suzanne Stirrat, residing at 7 Townend Road, Kilmarnock KA1 4TD ("the Tenant")**

**Maconachies of Kilmarnock Limited, incorporated in Scotland under the Companies Acts (SC032179) and having their Registered Office at 22-26 Campbell Street, Kilmarnock KA1 4HW ("the Landlord")**

**Tribunal Members – George Clark (Legal Member/Chairperson) and Robert Buchan (Ordinary Member/Surveyor)**

#### **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 carried out the work required by the Repairing Standard Enforcement Order in respect of the Property made on 10 June 2018, determined that the work has been carried out and that a Certificate of Completion of Works should be issued, in terms of Section 60 of the Housing (Scotland) Act 2006.**

#### **Background**

- 1. By application received on 23 February 2018, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland 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").**
- 2. The application stated that the Tenant considered that the Landlord had failed to comply with their duty to ensure that the house meets the repairing standard.**

In particular, the Tenant stated that the Landlord had failed to ensure that the house is wind and water tight and in all other respects reasonably fit for human habitation.

3. The tribunal inspected the Property on the morning of 29 May 2018.
4. The tribunal comprised George Clark (Legal Member/Chairperson) and Robert Buchan (Ordinary Member/surveyor).
5. Following the inspection, the tribunal held a hearing at North West Kilmarnock Area Centre, Western Road, Kilmarnock KA3 1NQ.
6. Following the hearing, on 10 June 2018, the Tribunal made a Repairing Standard Enforcement Order in respect of the Property ("the Order"). The Order required the Landlord:-
  - (1) to carry out such repairs as are necessary to make the windows throughout the Property wind and water tight;
  - (2) to carry out such repairs to the small top-hung windows in the upstairs bedrooms as are necessary to render them wind and water tight and in proper working order; and
  - (3) to carry out such repairs as are required to the rear entrance door and its surround to render it wind and water tight and in proper working order.
7. The Tribunal order that the works required by this Order must be carried out within the period of 4 weeks from the date of service of the Order.
8. The Ordinary Member/surveyor of the Tribunal reinspected the Property on 23 October 2018. He reported that all of the defective window seals had been renewed, a key had been provided for the window locks, a new double-glazed back door, frame and surround had been fitted and that a random selection of windows tested had been found to be readily operational and wind and water tight.
9. A copy of the Reinspection Report, including photographs, taken at the reinspection, is attached to and forms part of this Statement of Decision.
10. Copies of the Reinspection Report were sent to the Parties, who were invited to comment on it. Neither Party made representations that they did not agree with the Report or requested a further hearing.

### **Findings of fact**

11. The tribunal makes the following findings of fact:
  - The Tribunal finds that all the work required by the Repairing Standard Enforcement Order has been carried out.

- The Tribunal noted also that the Landlord had fulfilled the undertaking given at the hearing to provide the necessary key to open the windows.

### **Reasons for the decision**

12. The Tribunal was satisfied that the Landlord had complied with the Order and that a Certificate of Completion of Works should be issued in respect of the Property, all in terms of Section 60 of the Housing (Scotland) Act 2006.

13. The decision of the tribunal was unanimous.

### **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.

G Clark

Signed

Date: 15 November 2018

Legal Member/Chairperson

*This is the Schedule of Photographs  
referred to in the Final Statement of Decision  
G Clark  
15 November 2018*

**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**



**Property address:** 7 Townend Road, Kilmarnock, KA1 4TD

**Chamber Reference Number:** FTS/HPC/RP/18/0391

**Date of re-inspection:** 23rd October 2018

**Surveyor:** R Buchan, FRICS

**Circumstances of inspection:** The tenant remains in occupation. The weather was dry.

**In attendance:** Suzanne Stirrat, the tenant, Marilyn Conway, property manager, on behalf of the landlord.

## **Repairing Standard Enforcement Order (RSEO)**

An RSEO was served on the Landlord, Maconachies of Kilmarnock Limited, on the 10th June 2018 following an inspection and hearing of the Tribunal on the 29th May 2018.

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

- (1) to carry out such repairs as are necessary to make the windows throughout the Property wind and water tight;
- (2) to carry out such repairs to the small top-hung windows in the upstairs bedrooms as are necessary to render them wind and water tight and in proper working order; and
- (3) to carry out such repairs as are required to the rear entrance door and its surround to render it wind and water tight and in proper working order.

## **Works carried out**

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

- (a) All of the defective window seals have been renewed. A key has been provided for the window locks.
- (b) A new double glazed back door, frame and surround has been fitted.

A random selection of windows was tested and found to be readily operational and wind and water tight.

## **Outstanding works**

No outstanding works were noted.

## **Additional note**

Photographs were taken and are attached to 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.

R Buchan

R Buchan, FRICS  
30th October 2018

**Schedule of photographs**  
7 Townend Road, Kilmarnock, KA1 4TD



Front living-room window



Rear living-room window

**Schedule of photographs**  
7 Townend Road, Kilmarnock, KA1 4TD



Front bedroom window



Side bedroom window

**Schedule of photographs**  
7 Townend Road, Kilmarnock, KA1 4TD



New back door