

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/18/ 2992

Land Registration Title Number LAN105737

**Property at 50 Marleyhill Avenue, Stonehouse, Larkhall, Lanarkshire ML9 3JQ
("the Property")**

The Parties:-

**Miss Angela Ross, formerly residing at 50 Marleyhill Avenue, Stonehouse,
Larkhall, Lanarkshire ML9 3JQ
("the Tenant")**

**Ms Debbie Docherty, Housing Advice Team, South Lanarkshire Council,
Cambuslang Gate, 27 Main Street, Cambuslang G72 7EX
("the Tenant's representative")**

**Mr John Markey, Murray Markey Partnership, formerly 10 Greystone Place,
Stonehaven ML10 6NZ ,then 7 Wellbrae, Stonehouse, Lanarkshire ML9 3ED and
now Jorlin House, 3 Manse Court, Stonehouse, Larkhall , ML 9 3NX
("the Landlord")**

**Ms Jordan Viola, 93 James Weir Grove, Uddingston, Glasgow G71 7PL
("the Landlord's representative")**

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 20th February 2019 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

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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.

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 on this and the preceding page are executed by Morag Leck, Legal Member of the Tribunal, at GLASGOW on 24th JULY 19 in the presence of the undernoted witness:-

J Devlin

M Leck

Witness

..Legal Member

Jordan Devlin Name in full
c/o GTC, 20 York Address
Street, G2 8GT

Housing and Property Chamber

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

Statement of Decision under Section 60 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/18/ 2992

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**Ms Jordan Viola, 93 James Weir Grove, Uddingston, Glasgow G71 7PL
("the Landlord's representative")**

Chamber Ref: FTS/HPC/RT/18/1003

Tribunal

Morag Leck – Legal member and Chairperson
Kingsley Bruce - Ordinary member

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 (RSE) relative to the Property dated 20th February 2019 determined that the Landlord has complied with the RSE and that a Certificate of Completion to that effect should be issued. The decision of the Tribunal was unanimous.



Background

1. On 20th February 2019, the Tribunal found that the Landlord had failed to comply with the duties imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 ("the Act") and produced a statement of decision. The Tribunal issued a Repairing Standard Enforcement Order ("RSEO") in respect of the Property, together with its statement of decision on 25th February 2019. The RSEO required the Landlord to carry out the works specified therein within six weeks from date of service of the RSEO.
2. The RSEO required the Landlord to:-
 - a) carry out such works as are necessary to ensure the house has satisfactory provision for giving warnings if carbon monoxide is present in a concentration that is hazardous to health, all as required in terms of the Scottish Government Guidance for the provision of Carbon Monoxide alarms in Private Rented Housing; and thereafter carry out such works as are necessary to obtain a Gas Safety Certificate in respect of the house by a Gas Safe registered engineer and provide a copy of the Gas Safety Certificate to the tribunal
 - b) Instruct a suitably qualified contractor to undertake such repair or replacement as necessary to ensure that the defective tap at the kitchen sink and trap are in reasonable state of repair and proper working order
 - c) instruct suitably qualified contractors to inspect and repair or replace as necessary (i) the built in oven and grill and ii) the integrated fridge freezer in the kitchen to ensure they are in a reasonable state of repair and proper working order
 - d) instruct a suitably qualified contractor to repair or replace the handle of the window in the upstairs back bedroom to ensure the window is in a reasonable state of repair and in proper working order
 - e) carry out such works as are necessary to ensure that there is an acceptable provision for detecting fires and for giving warning in the event of fire or suspected fire, all as required in terms of the Scottish Government Guidance for the satisfactory provision for the detection and warning of fires and current building regulations; and thereafter carry out such works as are necessary to obtain a certified Electrical Installation Condition Report (EICR) and Portable Appliance Test (PAT) which reports should be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor and provide a copies of the EICR and PAT certificate to the tribunal.
3. Following the expiry of the time limit for work to be carried out as stated in the RSEO, the Tribunal agreed that a re-inspection of the Property be scheduled. This was set for 26th April 2019.

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4. Thereafter the Landlord's representative, Ms Jordan Viola contacted the Tribunal to advise that the Tenant no longer resided at the Property and the Landlord intended to sell the Property. She requested that the inspection be cancelled. Further contact was then made by Ms Viola advising that as the Tenant had taken the keys to the property no access could be provided in time for the scheduled inspection. In the circumstances the Tribunal agreed to cancel and reschedule the inspection for 10th May 2019.
5. Mr Kingsley Bruce, the Ordinary member attended at the Property on the scheduled date along with Mr John Markey, the Landlord. The Tenant had vacated the Property prior to the re-inspection and was not present or represented. Mr Bruce carried out an inspection of the Property on that date and prepared a report, a copy of which is annexed hereto.
6. The Landlord's representative, Ms Viola, also forwarded to the Tribunal on the same day as the re-inspection took place, photographic evidence of the purchase of wireless interlinked smoke detectors for the Property.
7. The re-inspection report set out the works specified in the RSEO which had been completed. The report was issued to the Landlord and his representative on 6th June 2019.
8. Representations were received from Ms Viola during the period for representations on the re-inspection report to be submitted. These referred to the Landlord's understanding of the position regarding smoke alarms as explained to Mr Bruce during the re-inspection. However having regard to Mr Bruce's comments, the Landlord had then purchased wireless interlinked smoke alarms all as intimated by email to the Tribunal previously. The representation also referenced a Gas Safety Certificate being issued for the Property on 20th September 2018 and the installation of a carbon monoxide detector thereafter. The Landlord's representative confirmed no further hearing was sought.
9. The Tribunal resumed its consideration of the application and having noted and accepted the position in relation to the smoke detectors, agreed that the Landlord be contacted and advised that the Gas Safety Certificate, EICR and PAT Testing reports required by the RSEO had not been provided. A letter requesting that these be sent to the Tribunal within 14 days was issued to the Landlord's representative on 25th June 2019.
10. By email dated 4th July the Landlord's representative submitted a Gas Safety Certificate and EICR for the Property. Ms Viola referred to her previous representation where she had set out that the carbon monoxide detector had not been in place at the time of the issue of the Gas Safety Certificate on 20th September 2018 but had since been fitted as noted in the re-inspection report. The EICR was dated 5th March 2018. Ms Viola further advised that there was no PAT Testing report as there were no portable appliances in the Property.

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11. Following receipt of the said email and attachments, the Tribunal were satisfied that no further clarification was needed in relation to the repairs set out in the RSEO and proceeded to make its decision.

Reasons for decision

12. The Tribunal, having regard to the terms of the re-inspection report along with the communications and documentation which had subsequently been submitted by the Landlord's representative, were satisfied by such evidence that the RSEO had been complied with in full by the Landlord. The Tribunal therefore determined to issue a Certificate of Completion to the effect of discharging the RSEO.

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.

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.

M Leck

Signed

..... Chairperson

Date

24/07/19

Glasgow 24/7/19

This is the
re-inspection report
referred to in the
foregoing decision
M Leck

Housing and Property Chamber
First-tier Tribunal for Scotland



HPC Re-inspection Report

Property: 20 Marleyhill Avenue, Stonehouse, Larkhall, Lanarkshire, ML9 3JQ
Ref No: FTS/HPC/RP/18/2992

Surveyor: Kingsley K Bruce, MRICS

Access:

I attended for the purposes of undertaking a re-inspection the property at 10:30 on Friday 11 May 2019.

In Attendance:

The property was vacant and unoccupied, the Landlord, Mr John Markey was present and provided access, the tenant who lodged the original application was neither present nor represented and was no longer in occupation of the property.

Weather:

Conditions were generally dry and bright at the time of my re-inspection.

Requirements of the Repairing Standard Enforcement Order (RSEO):

Following an inspection and hearing on 30 January 2019, the tribunal determined as follows::

"The tribunal now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the property concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the tribunal requires the landlord to:-

- a) *carry out such works as are necessary to ensure the house has satisfactory*

provision for giving warnings if carbon monoxide is present in a concentration that is hazardous to health , all as required in terms of the Scottish Government Guidance for the provision of Carbon Monoxide alarms in Private Rented Housing; and thereafter carry out such works as are necessary to obtain a Gas Safety Certificate in respect of the house by a Gas Safe registered engineer and provide a copy of the Gas Safety Certificate to the tribunal

- b) Instruct a suitably qualified contractor to undertake such repair or replacement are necessary to ensure that the defective tap at the kitchen sink and trap are in reasonable state of repair and proper working order.*
- c) instruct suitably qualified contractors to inspect and repair or replace as necessary (i) the built in oven and grill and ii) the integrated fridge freezer in the kitchen to ensure they are in a reasonable state of repair and proper working order*
- d) instruct a suitably qualified contractor to repair or replace the handle of the window in the upstairs back bedroom to ensure the window is in a reasonable state of repair and in proper working order*
- e) carry out such works as are necessary to ensure that there is an acceptable provision for detecting fires and for giving warning in the event of fire or suspected fire, all as required in terms of the Scottish Government Guidance for the satisfactory provision for the detection and warning of fires and current building regulations; and thereafter carry out such works as are necessary to obtain a certified Electrical Installation Condition Report (EICR) and Portable Appliance Test (PAT) which reports should be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor and provide copies of the EICR and PAT certificate to the tribunal*

The tribunal orders that the works specified in this Order must be carried out and completed within the period of six weeks from the date of service of this Notice.”

Works required by the RSEO which have been undertaken:

- A Carbon Monoxide detector was evident adjacent to the gas boiler.
- The tap at the kitchen sink has been replaced and there was no indication of leakage at the time of inspection.
- The oven grill appeared to have been replaced.
- The fridge freezer had been removed and a free-standing replacement was in place.
- The window handle to the bedroom window had been replaced.
- Battery operated smoke alarms fitted with long life sealed batteries were installed, but not interlinked.

Kingsley K Bruce, MRICS
Member
The First Tier Tribunal for Scotland (Housing and Property Chamber)
29 May 2019

Photographs taken during re-inspection 11 May 2019







