

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**

Case Ref: FTS/HPC/RT/17/0533

Re: property at: 13J North Ellen Street, Dundee, DD3 7DF being the subjects more particularly described in and disposed by Disposition by John Justice and Susan Justice in favour of Ashraf Aboobaker, Aniz Aboobaker and Rizvan Aboobaker recorded in the General Register of Sasines for the County of Angus on 26th February 1992 ('the House').

The Parties:

Dundee City Council, Private Sector Services Unit, 3 City Square, Dundee, DD1 3BS ('the Third Party Applicant')

Mr Rizvan Aboobaker, 26 Clayhills Drive, Dundee, DD2 1SX ('the Landlord')

Mr Robert Kyle residing at 13J North Ellen Street, Dundee, DD3 7DF ('the Tenant')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') hereby certifies that the work required by the varied Repairing Standard Enforcement Order relative to the House dated 6th August 2018 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the House has been discharged.

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 Helen Forbes, solicitor, Legal Member and Chairperson of the Tribunal at Inverness on 30th October 2018 before this witness:-

A David

H Forbes

_____ Witness _____ Chairperson

Witness: Anne Fearon David, Council Buildings, Glenurquhart Road, Inverness, IV3 5NX

Housing and Property Chamber

First-tier Tribunal for Scotland



DETERMINATION BY FIRST-TIER TRIBUNAL FOR SCOTLAND (HOUSING AND PROPERTY CHAMBER)

Statement relative to the Certificate of Completion of work issued by the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 63 of the Housing (Scotland) Act 2006

Case Ref: FTS/HPC/RT/17/0533

Re: property at: 13J North Ellen Street, Dundee, DD3 7DF being the subjects more particularly described in and disposed by Disposition by John Justice and Susan Justice in favour of Ashraf Aboobaker, Aniz Aboobaker and Rizvan Aboobaker recorded in the General Register of Sasines for the County of Angus on 26th February 1992 ('the House').

The Parties:

Dundee City Council, Private Sector Services Unit, 3 City Square, Dundee, DD1 3BS ('the Third Party Applicant')

Mr Rizvan Aboobaker, 26 Clayhills Drive, Dundee, DD2 1SX ('the Landlord')

Mr Robert Kyle residing at 13J North Ellen Street, Dundee, DD3 7DF ('the Tenant')

Tribunal Members

Ms Helen Forbes (Legal Member)

Mr Andrew McFarlane (Ordinary Member)

Decision

1. Further to a decision of the First Tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') dated 9th April 2018, the Tribunal issued a Repairing Standard Enforcement Order ('RSEO') in respect of the House. Within six weeks of the date of service of the RSEO, the Landlord was required to:-
 1. Repair or replace the windows throughout the House to ensure that they are in a reasonable state of repair and in proper working order, ensuring that:
 - (a) all windows open and close in a proper manner;

- (b) all weathered timber components are in a reasonable state of repair;
 - (c) all pointing to the windows is restored;
 - 2. Restore the electrical system within the property to a reasonable state of repair;
 - 3. Produce a satisfactory Electrical Installation Condition Report (EICR) from a suitably qualified and registered SELECT or NICEIC electrical contractor on the installation within the house for the supply of electricity;
 - 4. Repair or replace the cooker to ensure that it is in a reasonable state of repair and in proper working order;
 - 5. Repair or replace the bathroom fan to ensure that it is in a reasonable state of repair and in proper working order.
2. A re-inspection conducted by the Ordinary Member of the Tribunal took place on 2nd July 2018 to verify that the works had been carried out. By report of the same date, the Ordinary Member reported that the two windows on the front elevation had been replaced with uPVC framed windows with opening lights and sealed double glazed units. Some of the supporting timbers remained exposed. The window on the rear elevation to the kitchen had been restored to an operational condition. The timbers, although heavily weathered and lacking a protective coating of paint, were in a reasonable state of repair, as was the pointing. The Landlord indicated that works had been carried out to the electrical system within the property and produced a copy of an EICR dated 16 January 2018 indicating that the installation was satisfactory. There was no reference number nor contractor details on the EICR. The Landlord said that the cooker had not received attention, as it was not his, nor was it part of the subjects let. The bathroom fan was found to be operational. The report with photographs is produced as relative hereto. The report was circulated to parties.
3. On 11th July 2018, the Third Party Applicant submitted representations stating that the EICR was marked satisfactory, yet it showed three Code C2 with no indication that these faults had been rectified.
4. On 19th July 2018, the Landlord submitted representations stating that all the work had been carried out. He lodged a Minor Electrical Works Installation Certificate dated 1st January 2018. He provided photographs indicating that the external exposed timbers had been coated with uPVC.
5. The Tribunal considered the case and decided that the electrical certification provided was not sufficient. Both the EICR and the Minor Electrical Works Installation Certificate pre-dated the inspection. The EICR was not completed satisfactorily, and indicated issues that required attention.

6. The Tribunal decided that it would be reasonable to vary the RSEO to allow a further period for the completion of the electrical works and certification, and to remove the direction in relation to the cooker, as it did not form part of the subjects of let. The Tribunal accordingly varied the RSEO and extended the period for the completion of the works for a period of four weeks from the date of receipt by the Landlord of the varied RSEO, which was dated 6th and issued on 13th August 2018.
7. A further re-inspection was carried out by the Ordinary Member on 16th October 2018. By report of the same date, the Ordinary Member reported that all works had been carried out satisfactorily; however, the EICR was not completed satisfactorily, and indicated issues that required attention. The report was circulated to parties. A copy of the report with photographs is produced as relative hereto.
8. The Landlord lodged a satisfactory EICR dated 15th September 2018 on 20th October 2018.

Decision

9. Thereafter, the Tribunal considered whether or not it was appropriate to find that the works required by the RSEO had been completed and whether the appropriate Certificate of Completion in terms of section 60 of the 2006 Act should be issued. The Tribunal agreed that the appropriate Certificate should be issued. The decision of the Tribunal was unanimous.

Right of Appeal

- 10. 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 the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decisions and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed H Forbes

Helen Forbes, Legal Member and Chairperson

Date: 30th October 2018

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Re-inspection Report

Chamber Ref: FTS/HPC/RT/17/0533

Property: 13J North Ellen Street Dundee DD3 7DF

*This is the Reinspection
Report dated 16th October
2018 and referred to
in the foregoing
Determination dated
30th October
2018
H Forbes*

*Solicitor
Cummings
30th October
2017*



The Property was re-inspected on 16 October 2018 at 10.00 during a period of dry, bright but cool weather. The Property, the landlord intimated, continued to be occupied by the tenant Mr Robert Kyle at the time of the re-inspection.

The re-inspection was conducted by Andrew McFarlane Ordinary Member and attended by Mr Rivzan Aboobaker the landlord. A Tribunal Clerk was also present. The Tenant was not present.

A Repairing Standard Enforcement Order (RSEO) was previously issued requiring the landlord :-

1. Repair or replace the windows throughout the House to ensure that they are in a reasonable state of repair and in proper working order, ensuring that:
 - (a) all windows open and close in a proper manner;
 - (b) all weathered timber components are in a reasonable state of repair;
 - (c) all pointing to the windows is restored;
2. Restore the electrical system within the property to a reasonable state of repair;
3. Produce a satisfactory Electrical Installation Condition Report (EICR) from a suitably qualified and registered SELECT or NICEIC electrical contractor on the installation within the house for the supply of electricity;
4. Repair or replace the cooker to ensure that it is in a reasonable state of repair and in proper working order;
5. Repair or replace the bathroom fan to ensure that it is in a reasonable state of repair and in proper working order.

On 2 July a re-inspection was carried out and a report issued. Representations were received and on 6 August 2018 the Tribunal varied the RSEO to remove item 4.

A further period of 4 weeks was given to complete the works. This expired on 24 September 2018.

As a result of the re-inspections the following was found:-

1. The two windows on the front elevation had been replaced with uPVC framed windows with opening lights and sealed double glazed units. These are the windows to the Bed Sitting room. The installation appears to be of reasonable quality and the previously noted exposed supporting timbers were now covered with uPVC trim. The window on the rear elevation to the kitchen had :
 - (a) been restored to an operational condition. This was demonstrated by the landlord;
 - (b) the timbers although heavily weathered and lacking a protective coating of paint were in a reasonable state of repair;
 - (c) the pointing around was in a reasonable state of repair
2. One of the socket outlets which previously had not been working appeared to now be operational, as far as could be established by a visual non disruptive examination.

3. The landlord referred to an EICR dated 16 January 2018 signed by a Jamie Fairlie previously provided. The shortcomings in this had been highlighted in the Tribunal Decision of 6 August 2018.

4. The bathroom fan was found on inspection to be operational.

This report comprises this page and the preceding two pages.

A McFarlane

Andrew McFarlane FRICS
Ordinary Member
16 October 2018

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Re-inspection Report

Chamber Ref: FTS/HPC/RT/17/0533

Property: 13J North Ellen Street Dundee DD3 7DF

*This is the Reinspection
Report dated 2nd July
2018 and referred to
in the foregoing
Determination dated*

*30th October
2018*

H Forbes

*Solicitor
Glenness
30th October
2018*



The Property was re-inspected on 2 July 2018 at 11.30 during a period of dry, sunny and warm weather. The Property, the landlord intimated, continued to be occupied by the tenant Mr Robert Kyle at the time of the re-inspection.

The re-inspection was conducted by Andrew McFarlane Ordinary Member and attended by Mr Rivzan Aboobaker the landlord. The Tenant was not present.

A Repairing Standard Enforcement Order was previously issued requiring the landlord :-

1. Repair or replace the windows throughout the House to ensure that they are in a reasonable state of repair and in proper working order, ensuring that:
 - (a) all windows open and close in a proper manner;
 - (b) all weathered timber components are in a reasonable state of repair;
 - (c) all pointing to the windows is restored;
2. Restore the electrical system within the property to a reasonable state of repair;
3. Produce a satisfactory Electrical Installation Condition Report (EICR) from a suitably qualified and registered SELECT or NICEIC electrical contractor on the installation within the house for the supply of electricity;
4. Repair or replace the cooker to ensure that it is in a reasonable state of repair and in proper working order;
5. Repair or replace the bathroom fan to ensure that it is in a reasonable state of repair and in proper working order.

A period of 6 weeks was given to complete the works. This expired on 1 June 2018.

As a result of the re-inspection the following was found:-

1. The two windows on the front elevation had been replaced with uPVC framed windows with opening lights and sealed double glazed units. These are the windows to the Bed Sitting room. The installation appears to be of reasonable quality although some of the supporting timbers remain exposed. The window on the rear elevation to the kitchen had :
 - (a) been restored to an operational condition. This was demonstrated by the landlord;
 - (b) the timbers although heavily weathered and lacking a protective coating of paint were in a reasonable state of repair;
 - (c) the pointing around was in a reasonable state of repair
2. The landlord indicated that works had been carried out to the electrical system within the property and produced a copy of an EICR. No further inspection was undertaken.
3. The landlord produced an EICR dated 16 January 2018 signed by a Jamie Fairlie. This indicates that the installation is satisfactory. This bears no reference number nor Contractors details despite there being parts of the form for such entries.

4. The landlord confirmed that the cooker had not received attention. His position was that the cooker was not his nor was it part of the subjects let.
5. The bathroom fan was found on inspection to be operational.

This report comprises this page, the preceding two pages and ten photographs.

Andrew McFarlane FRICS
Ordinary Member
2 July 2018



1. Left window to Bed Sitting Room internally



2. Right window to Bed Sitting Room internally



3. Left window to Bed Sitting Room externally



4. Left window to Bed Sitting Room externally



5. Right window to Bed Sitting Room externally



6. Right window to Bed Sitting Room externally



7. Kitchen Window internally



8. Kitchen Window externally



9. Kitchen Window externally



10. Extract fan in Bathroom