

# 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**

**Chamber Ref: FTS/HPC/RT/18/0347**

**Title no/Sasines Description: the northmost first floor house 29 North William Street, Dundee being part of the subjects described in Disposition by Enrico Albert Roncone in favour of Graham Bradley and Norah Bradley, Spouses, as Trustees for their firm of Bradley Removals and Storage Group dated 7 March 1995 and recorded in the General Register of Sasines for the County of Angus on 7 March 1995 (Search Sheet Number 91334)**

**Re: Property at Flat 1/1, 29 North William Street, Dundee, DD3 7DB ("the Property")**

**The Parties:**

**Miss Lorraine Robertson, residing at the Property ("the Tenant")**

**Graham Bradley and Norah Bradley as Trustees for the firm of Bradley Removals and Storage Group; care of Graham Bradley Properties/Bradley Property Management Group, Strips of Craigie House, 34 Strips of Craigie Road, Dundee, DD4 7QG; ("the Landlord")**

**Dundee City Council-Private Sector Services Unit, 3 City Square, Dundee, DD1 3BA ("the Third Party Applicant")**

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 29 May 2018 has been completed. Accordingly, the said Repairing Standard Enforcement Order 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 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 6 August 2018 in the presence of the undernoted witness:-

F T Weir

witness

N Weir

Legal Member

F T Weir

name in full

9/29/2018 15:03

Address

121NG, H8284LN

# **Housing and Property Chamber**

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

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**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/RT/18/0347**

**Title no/Sasines Description: the northmost first floor house 29 North William Street, Dundee being part of the subjects described in Disposition by Enrico Albert Roncone in favour of Graham Bradley and Norah Bradley, Spouses, as Trustees for their firm of Bradley Removals and Storage Group dated 7 March 1995 and recorded in the General Register of Sasines for the County of Angus on 7 March 1995 (Search Sheet Number 91334)**

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**Dundee City Council-Private Sector Services Unit, 3 City Square, Dundee, DD1 3BA (“the Third Party Applicant”)**

### **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 Property dated 29 May 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**

**Donald Wooley, Ordinary Member**

## Background

1. By Application received on 16 February 2018, the Third Party Applicant 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 stated that the Third Party Applicant considered that the Landlord had failed to comply with his duty to ensure that the house meets the following parts of the repairing standard in terms of Section 13 of the Act, namely that the house is wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a); that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and proper working order (Section 13(1)(b); that any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order (section 13(1)(d); and that any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed (Section 13(1)(e).

In particular, the Third Party Applicant stated "The tenant has complained to the landlord on numerous times that repairs to the property were requiring to be carried out. These complaints have been made since the tenant moved in to the property in January 2017. The Landlord has either ignored these requests or informed the tenant that she was out when his tradesman called. Letter sent to Landlord tracker number BR5727 6703 9GB." As to the work needed, the Third Party Applicant referred to the copy letter from the Third Party Applicant to the Landlord dated 12 February 2018 which was attached to the Application. This letter stated that the works required were:-

- "1. Living room window (left hand side) repaired so that it closes properly and is draught free.
2. Bath panels replaced as they are missing.
3. Existing sealant around bath removed and replaced with appropriate sealant to ensure proper waterproof seal.
4. Shower curtain or screen installed.
5. Work required on front door to eliminate draughts.
6. Existing or new Electrical Installation Condition Report to be produced."

Apart from the application form, the Third Party Applicant also submitted the said copy letter dated 12 February 2018 notifying the Landlord of required repairs, together with "track and trace" proof of delivery of same on 13 February 2018 from the Royal Mail "Signed For" service. No tenancy agreement was included with the Application. This was requested and subsequently submitted to the Tribunal on 8 March 2018.

2. On 15 March 2018, 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, Inspection and Hearing in terms of Schedule 2, Paragraph 1 of the Act was served upon the parties by letter dated 6 April 2018, stipulating that any written representations should be lodged with the Tribunal by 27 April 2018. The Third Party Applicant responded to say that they wished to attend the Hearing but did not wish to make further written representations. The Landlord did not respond as to whether the Landlord wished to attend the Hearing and no written representations were submitted.

3. The Tribunal issued a Notice of Direction dated 3 May 2018 which required the Landlord to provide to the Tribunal no later than close of business on 14 May 2018 a current Electrical Installation Condition Report (EICR) in respect of the installations in the Property 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. The Landlord subsequently complied with this Direction, albeit on 16 May 2018, rather than by the time limit stated of 14 May 2018.
4. The Tribunal inspected the property on the morning of 16 May 2018. In addition to the Members of the Tribunal and the Tribunal Clerk, Mr Graham Bradley was present as Landlord, as was the Tenant and Mr Stuart Cuthill for the Third Party Applicant. Contractors instructed by the Landlord were also in the property, carrying out repairs, at the time of the inspection.
5. Following the inspection of the house, the Tribunal held a Hearing at Kirkton Community Centre, Derwent Avenue, Dundee, DD3 0AX. Mr Cuthill for the Third Party Applicant attended the Hearing. There were no other attendees.
6. Following the Hearing, the Tribunal proceeded to make a Repairing Standard Enforcement Order (RSEO) in relation to the Property dated 29 May 2018. In terms of the RSEO, the Landlord was required:- (1) To repair or, as necessary, replace the left hand window in the living room to ensure that the window is secure and its operating mechanism, including the handle, is functioning satisfactorily, allowing the window to be opened and closed properly and securely, ensuring that it is in a wind and watertight condition; (2) To fit a shower screen or shower rail and shower curtain around the bath in the bathroom to allow the shower to be used properly and (3) To replace the existing foam or filler around the bath in the bathroom with a suitable waterproof sealant to ensure that there is a satisfactory waterproof seal around the bath. The Landlord was required to complete the work within a period of 6 weeks from the date of service of the RSEO.
7. A Re-inspection of the Property by the Ordinary Member of the Tribunal was subsequently scheduled to take place on 2 August 2018. However, in response to notification by the Tribunal of same, Mr Cuthill of the Third

Party Applicant emailed the Tribunal on 23 July 2018 confirming that the works required in terms of the RSEO had been carried out and that the RSEO should accordingly be revoked. Mr Cuthill advised in his representations that he had personally inspected the Property on 11 July 2018 and that, in his view, the works had been completed to a satisfactory standard. No representations were received from, or on behalf of, the Landlord.

8. The Tribunal considered the terms of the written representations submitted to the Tribunal by the Third Party Applicant. On the basis that it had been Mr Cuthill who had personally submitted the Application for the Third Party Applicant on behalf of the Tenant, his knowledge of the Property and the fact that he had recently personally inspected the Property and the works carried out by the Landlord, the Tribunal was of the view that Re-inspection by the Ordinary Member was not required. 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 also of the view that it was able to make sufficient findings to determine the case without holding 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

9. The Tribunal was satisfied from the Third Party Applicant's representations that all works required in terms of the RSEO had been completed satisfactorily 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

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

11. 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.**

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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: 6 August 2018  
Nicola Weir, Legal Member of the Tribunal