

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/17/0106

Title no: FFE59688

7 Wellesley Road, Buckhaven, Fife, KY8 1HU (“The Property”)

The Parties:-

MRS THERESA DODDS, residing formerly at 7 Wellesley Road, Buckhaven, Fife, KY8 1HU (“the Tenant”)

KENNETH RUDOLF DROOG and MRS FIONA SARAH KERR ROSS-DROOG, Windsor Cottage, 39 Dundee Loan, Forfar, DD8 1DY (“the former Landlords”)

ZARAR AHMED, 6 Hallfields Place, Kennoway, Leven, KY8 5HH and MUDASAR AHMED, 24 Pentland Drive, Kennoway, Leven, KY8 5TX (“the Landlords”)

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 served 9 August 2017 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 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 Ewan K Miller, legal member of the Tribunal, at Dundee on the 30 April 2019 in the presence of the undernoted witness:-

M Royden

E Miller

_____ witness

_____ Legal member

MICHAEL ROYDEN name in full

WHITELAW HOUSE address

33 YETHAM SQUARE

DUNDEE

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

Chamber Ref: FTS/HPC/RP/17/0106

7 Wellesley Road, Buckhaven, Fife, KY8 1HU (“The Property”)

The Parties:-

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ZARAR AHMED, 6 Hallfields Place, Kennoway, Leven, KY8 5HH and MUDASAR AHMED, 24 Pentland Drive, Kennoway, Leven, KY8 5TX (“the Landlords”)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’), having made such enquiries as was appropriate for determining whether the Landlords had complied with the Repairing Standard Enforcement Order (“RSEO”) in relation to the Property concerned, and taking account of the subsequent re-inspection of the Property, determined that the Landlords had 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. By way of a Decision dated 9 August 2017, the Tribunal had issued a determination that the former Landlords had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”).**
- 2. The Tribunal had placed an RSEO on the Property also dated 9 August 2017, the RSEO required the former Landlords:-**
 - (a) to carry out such works to the structure and exterior of the Property to ensure that the Property is properly wind and watertight and free**

from ongoing water penetration, As part of these works the former Landlords will require to provide the Tribunal with:-

- A report from a suitably qualified roofer confirming the works that have been carried out;
 - A report from a suitably qualified timber and damp specialist confirming any areas of rot found and what appropriate preventative works, if any, have been carried out.
 - Any appropriate guarantees given following the carrying out of the works.
- (b) to carry out such electrical works to the Property as are necessary to allow the issue of a clear Electrical Installation Condition Report with no items marked C1 or C2.
- (c) to carry out such works of repair or replacement to the rhones, downpipes and drains to ensure that they are in proper working order and meet the repairing standard.
- (d) to install an appropriate hardwired interlinked smoke detection system (including a heat detector in the kitchen) compliant with the repairing standard.
- (e) to install appropriate carbon monoxide detection systems within the Property.
- (f) to carry out such works of repair or replacement to the windows and lintels above them to ensure that they are properly wind and watertight and in proper working order.
- (g) to provide a clear and current gas safety certificate over the Property.

The RSEO required the former Landlords to carry out the works within a period of 4 months from the date of service of the RSEO.

In due course the Tribunal tried to carry out a re-inspection of the Property. On the first occasion that the Surveyor Member of the Tribunal tried to access the Property, no party was present to give access. The Tribunal tried on a repeated basis to gain access from the former Landlords. The former Landlords were in touch sporadically to indicate that they were selling the Property. The Tribunal tried to contact the selling agent to arrange access to the Property but no access was ever given.

From a visual inspection of the Property carried out by the Surveyor Member it looked as if no further work had been carried out. The RSEO required a number of certificates to be provided and none of these had. On

that basis the Tribunal was satisfied that there had been a failure to comply by the former Landlords

The Tribunal could not take matters any further forward at that point without gaining access. However, during a periodic title check carried out by the Tribunal it was noted that the Property had been sold on 29 August 2018 and that the new owners were the Landlords. Contact was made with the Landlords. The Landlords were two brothers who advised the Tribunal that they had purchased the Property with a view to converting it in to a joint family home for them and their families. The Tribunal was able to access the planning permission which had been submitted in this regard which did indeed indicate that the Property was to continue as a large family home.

Occasionally, the Tribunal has had a situation where purchasers of a property that is subject to an RSEO, have indicated that they are intending to reside in the Property themselves in an attempt to get the Tribunal to discharge an RSEO. The Tribunal therefore determined that a prudent approach was the correct one and therefore arranged for the Surveyor Member to re-inspect the Property.

The Surveyor Member inspected the Property again on 18 February 2019. The Landlords were present. The Surveyor Member reported that extensive refurbishment works were being carried out the Property to bring it back to a much higher standard. The works were not yet complete but it was apparent that the items required by the RSEO would be addressed during the course of the refurbishment. The Landlords had already carried out damp proofing and associated repairs. The conservatory disrepair had been attended to. A full rewiring of the Property was ongoing as well as a central heating upgrade.

The Tribunal considered the position here. The Tribunal was satisfied from discussions that the Surveyor Member had with the Landlords that it was a genuine intention on their part to occupy the Property as a family home. The Tribunal was satisfied that extensive works were being carried out to improve the Property that would bring it up to a habitable standard. In the circumstances the Tribunal could not see that there was any benefit in them continuing their involvement and it was therefore appropriate to lift the RSEO and grant a Certificate of Completion discharging the RSEO.

Decision

3. The Decision of the Tribunal was to lift the RSEO and grant a Certificate of Completion discharging the RSEO.
4. The decision of the Tribunal was unanimous.

Right of Appeal

5. 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.

Effect of section 63

6. Where such an appeal is made, the effect of the decision and of 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 decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

E Miller

Signed Chairperson

Date 30/4/19