

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/17/0182

Land Register Title No: GLA198096

10, Parkmeadow Way, Glasgow G53 7ZF ("The House")

The Parties:-

Mr Kenneth MacDonald formerly residing at 10 Parkmeadow Way, Glasgow G53 7ZF ("The Tenant")

Per his agent, Ms Linsey Rogers, 28 Bain Street, Glasgow G40 2LA

Dr Tanveer Bhayana, formerly residing at 2 Tom Blower Close, Nottingham NG8 1JQ and now at 78 Hitherbroom Road, Hayes, UB3 3AE ("The Landlord")

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 25th August 2017 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

In terms of section 46 of the Tribunal (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 are executed by Morag Leck, Legal Member of the Tribunal, at Glasgow on ~~3rd October 2018~~ in the presence of the undernoted witness:-

S Dunn

..Witness

Morag Leck

Legal Member

Shannon Dunn

20 York Street Name in full

Glasgow Address

G2 8AT

Housing and Property Chamber

First-tier Tribunal for Scotland



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/17/0182

Land Register Title No: GLA198096

10, Parkmeadow Way, Glasgow G53 7ZF ("The House ")

The Parties:-

Mr Kenneth MacDonald formerly residing at 10 Parkmeadow Way, Glasgow G53 7ZF ("The Tenant")

Per his agent, Ms Linsey Rogers, 28 Bain Street, Glasgow G40 2LA

Dr Tanveer Bhayana, formerly residing at 2 Tom Blower Close, Nottingham NG8 1JQ and now at 78 Hitherbroom Road, Hayes, UB3 3AE ("The Landlord")

Tribunal

Morag Leck – Legal member and Chairperson
Mike Links – 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 house dated 25th August 2017, 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 25th August 2017, 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 on that date. On 31st August 2017, the Tribunal issued a Repairing Standard Enforcement Order ("RSEO") in respect of the Property, together with its statement of decision. The RSEO required the Landlord to carry out the works specified therein within eight weeks from date of service of the RSEO.
2. The RSEO required the Landlord to:-
 - (a) commission a certified Electrical Installation Condition Report (EICR) and Portable Appliance Test (PAT) which report should be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor, and carry out such works as are necessary to rectify any identified issue in the EICR and provide the Tribunal with a report from a suitably qualified and registered SELECT or NICEIC electrical contractor confirming that the works are completed;
 - (b) 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;
 - (c) carry out such works as are necessary to obtain a gas safety record in respect of the house by a Gas Safe registered engineer ;
 - (d) 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
 - (e) commission suitably qualified contractor(s) to provide reports on the extractor fan, dishwasher and fridge freezer located in the kitchen of the house and to repair or replace each appliance as required in terms of said reports
3. Prior to expiry of the time limit for appeal, the Landlord's representative made an application for permission to appeal the Tribunal's decision. Following receipt of that application it was identified that a number of the documents referred to by the Landlord had not been available to the Tribunal at the time of the original hearing in respect of the application on 11th August 2017. The Tribunal agreed to review its decision and to defer consideration of the application for permission to appeal until determination of the review.
4. Following a review hearing on 20th December 2017 the Tribunal issued a decision dated 16th January 2018 confirming its original decision. In the intervening period the Tenant's representative advised that he had vacated the property.
5. Following determination of the review, the Tribunal considered and determined the application for permission to appeal. The Tribunal's decision to allow permission to

appeal in part on the points of law as stated therein, and otherwise refuse, was issued on 8th February 2018.

6. Following expiry of the period for lodging of an appeal, no appeal was received. Given the original time limit for work to be carried out as stated in the RSEO had expired, the Tribunal agreed that a re-inspection of the property be scheduled. This was set for 30th April 2018. Prior to that date a communication was received from the Landlord requesting a postponement of the inspection as she was out of the country. The Tribunal agreed to this request and the re-inspection was re-scheduled for 18th June 2018.
7. The ordinary member carried out a re-inspection of the property on 18th June 2018 and prepared a report. A copy of this re-inspection report is annexed hereto.
8. The re-inspection disclosed that the works specified in the RSEO had been partially completed in so far as item (b) of items listed on the RSEO had been addressed. All other items remained outstanding.
9. Thereafter the re-inspection report was issued to the Landlord on 22nd June 2018. Various emails were subsequently received from the Landlord and also Dr Rohat Bhayana who confirmed that he was no longer representing the Landlord. The Landlord provided an updated address and Gas Safety Certificate. She requested the Tribunal contact her previous representative regarding the EICR and it was explained to her that it was not open to the Tribunal to do this.
10. Following expiry of the period for representations the Tribunal were contacted by the Landlord who advised that all required works were complete and she had appointed an agent to represent her, Ms Margo Brown, of Your Conveyancers. On the basis of the information received the Tribunal agreed that a further re-inspection be scheduled for 2nd August 2018. Prior to this date an EICR was submitted to the Tribunal by the Landlord on 25th July 2018.
11. The ordinary member carried out a further re-inspection of the property on 2nd August 2018 and prepared a further report. A copy of this re-inspection report is also annexed hereto.
12. The re-inspection disclosed that further works had been undertaken and items (a); (b); (c) and (e) of the works specified in the RSEO had now been completed. However as previously advised in the report of 18th June there was no CO monitor in the Utility Room where the gas central heating boiler was located.
13. Thereafter the further re-inspection report was issued to the Landlord and her agent on 8th August 2018. No response was received within the required timescale. The Tribunal sought clarification of the position from the Landlord's agent who requested further time to respond as the Landlord was out of the country. An email was subsequently received from the Landlord's agent advising that the Landlord had arranged for the installation of a carbon monoxide detector and that the property was being sold.

14. The Tribunal again resumed its consideration of the application and agreed that the provision of a receipt for purchase together with photographic evidence of the installation of a carbon monoxide detector would be sufficient without the need for a further re-inspection. The Landlord and her agent were advised that such evidence required to be lodged by 21st September 2018. A photograph of the receipt for purchase of the carbon monoxide detector and photograph of this in situ were received by the Tribunal on 19th September 2018. The Tribunal accordingly proceeded to make its decision.

Reasons for decision

15. The Tribunal was satisfied from its consideration of the two re-inspection reports and the photographs which had subsequently been submitted that all works required in terms of the RSEO had been completed satisfactorily and that the RSEO had been complied with by the Landlord. Accordingly the Tribunal determined to issue a Certificate of Completion to the effect of discharging the RSEO.

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 as having effect from the day on which the appeal is abandoned or so determined.

Morag Leck

Signed

Chairperson

Date

3rd October 2018

This is the first
re-inspection report
referred to in the foregoing decision.
Morag Leck

Legal
Member

Housing and Property Chamber
First-tier Tribunal for Scotland



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

RE-INSPECTION REPORT



PROPERTY: 10 Parkmeadow Way, Glasgow G53 7ZF

HPC REF No: FTS/HPC/RP/17/0182

SURVEYOR: Mike Links

IN ATTENDANCE: Dr Tanveer Bhayana (Landlord)

Emma Shaw (Clerk to the Tribunal)

It should be noted that the Tenant, Mr Kenneth MacDonald has vacated the property.

WEATHER: Overcast and dry.

ACCESS: I re-inspected the property on Monday 18th June 2018 at 10am

PHOTOGRAPHS: All photographs, where otherwise stated, taken on the day of the re-inspection.

RSEO:

The following works are required by the RSEO following on from the Inspection and Hearing on 11th August 2017.

(a) commission a certified Electrical Installation Condition Report (EICR) and Portable Appliance Test (PAT) which should be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor, and carry out such works as are necessary to rectify any identified issue in the EICR and provide the Tribunal with a report from a suitably qualified and registered SELECT or NICEIC electrical contractor confirming that the works are completed;

(b) 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 a 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;

(c) carry out such works as are necessary to obtain a gas safety record in respect of the House by a Gas Safe registered engineer;

(d) 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

(e) commission a suitably qualified contractor(s) to provide reports on the extractor fan, dishwasher and fridge freezer located in the kitchen of the house and to repair or replace each appliance as required in terms of the said reports.

WORKS IN RSEO UNDERTAKEN:

Item (b) above has been satisfactorily completed.



Heat detector in Kitchen



Smoke detector in Living Room



Smoke detector in Hall



Smoke detector in Upper Landing.

WORKS IN RSEO OUTSTANDING:

Item (a) A compliant EICR has not been provided. Dr Bhayana believes an EICR has been undertaken but she does not have the certification.

Item (c) A compliant Gas Safe certificate has not been provided.

Item (d) A CO monitor is installed within the kitchen, where a gas hob is located. However, there is no CO monitor in the Utility Room, where the gas central heating boiler is located.



CO monitor in Kitchen.



No CO monitor in Utility Room.

Item (e) No contractor's report has been provided on the extractor fan, dishwasher and fridge freezer.

However, the landlord advises a new dishwasher has been installed. It was noted that the dishwasher door is fouling the kick plate.



Dishwasher – 11th Aug 2017



Dishwasher ~ 18th June 2018

The fridge freezer remains as seen on the 11th August 2017. At the time of my inspection today, it appeared to be operating satisfactorily.



Fridge Freezer

The extractor fan remains as seen on the 11th August 2017. It is not operating. The Landlord advises that a new extractor fan was purchased but never installed.



Extractor fan - 11th Aug 2017



Extractor fan – 18th June 2018

RECOMMENDATION:

Once the re-inspection report is forwarded to the Landlord for comment the Tribunal will then decide what further action is required.

Mike Links

Ordinary Member (Surveyor)

Housing and Property Chamber

Date: 18th June 2018

This is the second
re-inspection report
referred to in the foregoing decision.
Morag Leck

Legal Member

Housing and Property Chamber
First-tier Tribunal for Scotland



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

RE-INSPECTION REPORT



PROPERTY: 10 Parkmeadow Way, Glasgow G53 7ZF

HPC REF No: FTS/HPC/RP/17/0182

SURVEYOR: Mike Links

IN ATTENDANCE: Sandra Corrigan (Purple Bricks—Landlord's selling agent)

WEATHER: Overcast and dry.

ACCESS: I re-inspected the property on Thursday 2nd August 2018 at 9.50 am.

Both Ms Corrigan and I arrived at the property early and it was agreed I would inspect the property 10 minutes before the scheduled appointment time.

PHOTOGRAPHS: All photographs taken on 2nd August 2018

RSEO:

The following works are required by the RSEO following on from the Inspection and Hearing on 11th August 2017.

(a) commission a certified Electrical Installation Condition Report (EICR) and Portable Appliance Test (PAT) which should be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor, and carry out such works as are necessary to rectify any identified issue in the EICR and provide the Tribunal with a report from a suitably qualified and registered SELECT or NICEIC electrical contractor confirming that the works are completed;

(b) 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 a 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;

(c) carry out such works as are necessary to obtain a gas safety record in respect of the House by a Gas Safe registered engineer;

(d) 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

(e) commission a suitably qualified contractor(s) to provide reports on the extractor fan, dishwasher and fridge freezer located in the kitchen of the house and to repair or replace each appliance as required in terms of the said reports.

WORKS IN RSEO UNDERTAKEN:

I re-inspected the property on 18th June 2018 and my report of that date should be read in conjunction with this report.

Item (b) in the RSEO was completed satisfactorily at my first re-inspection.

Item (a) in the RSEO: An EICR has been forwarded to the Tribunal. The EICR has been undertaken by Konnect (Scotland) Ltd, registered with NICEIC, and dated 23 Aug 2017.

The report is satisfactory though it does not appear to include a PAT test certificate.

Item (c) in the RSEO: A gas safety certificate has been forwarded to the Tribunal. This has been undertaken by The Power Service (Scotland) Ltd, registered with Gas Safe and dated 24 Oct 2017.

The report is satisfactory.

Item (e) in the RSEO: No qualified contractor(s) reports have been provided. However, as stated in the report dated 18th June 2018, a new dishwasher has been installed. At today's inspection, the fridge/freezer was turned off though it did appear

to be operating satisfactorily on the 18th June 2018.

The original extractor fan is in situ and on this occasion I was able to turn it on by means of activating a remote switch named "Tumble Drier" It is assumed to be operating properly.



Extractor fan



On-Off operating switch.

WORKS IN RSEO OUTSTANDING:

Item (d) in the RSEO: As previously advised in the report of 18th June 2018, there is no CO monitor in the Utility Room, where the gas central heating boiler is located.



RECOMMENDATION:

Once the re-inspection report is forwarded to the Landlord for comment the Tribunal will then decide what further action is required.

Mike Links

Ordinary Member (Surveyor)

Housing and Property Chamber

Date: 2nd August 2018