

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/17/0365

Title Number: ANG23903

40b Lansdowne Square, Dundee, DD2 3HW ("The Property")

The Parties:-

Miss Daryl Bradford, residing at 40b Lansdowne Square, Dundee, DD2 3HW (represented by their agent, Mr Peter Kinghorn of Dundee North Law Centre and Ms Deborah Barron of Shelter) ("the Tenant")

Mr Ronald and Mrs Elizabeth Evans, residing at 31 Cupar Road, Newport on Tay, Fife (represented by their agent, Mr David Wilkie of The Property Management Company, 19 Castle Street, Tayport) ("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 dated 13 February 2018 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(s) are executed by Ewan Kenneth Miller, legal member of the Tribunal, at Dundee on 21st September 2018 in the presence of the undersigned witness:-

L Johnston

E Miller

witness

Legal member

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ

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 Section 24 (1)

Chamber Ref: FTS/HPC/RP/17/0365

40b Lansdowne Square, Dundee, DD2 3HW ("the Property")

The Parties:-

Miss Daryl Bradford, formerly residing at 40b Lansdowne Square, Dundee, DD2 3HW ("the Tenant")

Ronald and Elizabeth Evans, residing at 31 Cupar Road, Newport on Tay, Fife (represented by their agent Mr David Wilkie of The Property Management Company, 19 Castle Street, Tayport) ("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 reinspection 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 13 February 2018, the Tribunal had issued a determination that the 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 13 February 2018, the RSEO required the Landlords:-**
 - (a) To carry out such works as are necessary to reduce the levels of condensation with the Property to an appropriate level compliant with the repairing standard.**
 - (b) To repair or replace the defective extractor fan within the bathroom, to remove so far as possible the existing mould and damp spotting in the bathroom, apply an inhibitor and redecorate as appropriate.**

The RSEO required the Landlords to carry out the works within a period of 3 months from the date of service of the RSEO.

On 19 June 2018, a reinspection of the Property was carried out by Mr Andrew Murray, Ordinary Member and qualified surveyor of the Tribunal. He was accompanied by Mr E K Miller, Chairman and Legal Member of the Tribunal. It was noted that a wall mounted controllable, permanent air vent had been installed in each habitable room. Previously noted condensation mould had largely been treated, with some residual works required prior to completion of an internal refurbishment that was ongoing. It was noted that a sizeable tree growing near the rear external wall had been cut down; this would assist with reducing potential future damp ingress in this location. It was also noted that a new mechanical extractor fan was fitted in the bathroom was inducted to the exterior of the Property. This was noted to be in working order.

The Tribunal noted that the Property was undergoing a complete internal refurbishment at the date of the reinspection. New doors were being installed alongside complete redecoration of the Property, fresh flooring and a new kitchen and bathroom being installed. Whilst some of the works had been done a great deal remained to be carried out. The Property was clearly not in a habitable condition at the time of the reinspection.

The Landlords agent indicated that works were ongoing and would be complete in the not too distant future. In light of the evidence obtained during the course of the inspection, the Tribunal was satisfied that the internal refurbishment would be completed in due course.

The Tribunal considered matters. From the evidence obtained during the course of the reinspection it was apparent that the issues relating to the condensation had been addressed within the Property. The Property had been improved with the installation of various vents. A working extractor fan was now present that would also help to clear condensation. The removal of the tree would also assist in preventing water penetration.

The Tribunal noted that the Property may still be less energy efficient than it could be and more prone to condensation than would be ideal as the root cause of the previous condensation issues (the defective cavity wall insulation) had not been rectified. However, it was open to the Landlords and their agent to approach the matter in the way they best saw fit and carry out other works that would counteract the defective cavity wall insulation. The Tribunal was satisfied that, on balance, the works that had been carried out would prevent condensation occurring within the parameters of normal every day living. On that basis the Tribunal was satisfied that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act should be granted.

The Landlords agent had undertaken at the reinspection to provide photographic evidence to the Tribunal that the internal refurbishment had been completed. In due course the Landlords agent forwarded a complete

set of pictures of the internal refurbishment to the Tribunal on 30 August 2018. Having examined these the Tribunal was satisfied that the Property was again in a habitable condition.

The reinspection report of 19 June 2018 is annexed to this Decision for information.

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.

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.

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

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Date

..... 11/10/18

Chairperson