

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 60

Chamber Ref: FTS/HPC/RP/18/0080

**Property at Denmill Lodge, Peterculter, Aberdeen, AB14 0PS
("The Property")**

The Parties:-

**Mr Kaleem Khan and Mrs Erum Niaza, Denmill Lodge, Peterculter, Aberdeen, AB14 0PS
("the Tenants")**

**Mr Anthony James Scott and Ms Deborah Morgan, c/o Aberdeen Considine, 420-424
Union Street, Aberdeen, AB10 1TQ
(represented by Aberdeen Considine, 420-424 Union Street, Aberdeen, AB10 1TQ)
("the Landlords")**

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 Landlords have complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, and taking account the documentation submitted to the tribunal, determined that the Landlords have 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. Reference is made to the determination of the tribunal dated 10 May 2018 which determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that he had failed to ensure that the Property met the repairing standard. The works required by the RSEO were: -
 - (a) Engage appropriate specialists to examine and test the underfloor heating system in the lounge of the Property to establish why an area is not heating and prepare a report detailing the necessary works. A copy of that report is to be provided to the tribunal.
 - (b) To carry out all works deemed necessary to repair or renew underfloor heating to leave fully operational.
 - (c) Test and commission entire underfloor heating system and obtain a Certificate from an appropriate person to confirm entire system fully operational. A copy of the Certificate is to be provided to the tribunal.

(d) Carry out any and all making good and decoration associated with the foregoing works.

The RSEO gave the Landlord 4 weeks to carry out the works.

2. On 20 July 2018 the Ordinary (Surveyor) Member of the tribunal, Mr Andrew McFarlane, re-inspected the Property on behalf of the tribunal. The Tenant Mr Kaleem Khan, was in attendance along with Mr Andrew Reid of Aberdeen Considine on behalf of the Landlords.

The Ordinary (Surveyor) Member noted that:-

- (a) The Landlords' Representatives had engaged contractors who had visited the Property and determined what works were required to the underfloor heating system. No report had been provided to the tribunal at that stage.
- (b) Works had been carried out to a the hearting manifold located in a cupboard in the inner hallway which appeared to have involved the provision of two valves. Packaging was available on site and was inspected.
- (c) A copy of an email dated 11 July 2018 from ajm Plumbing of Aberdeen was provided to the Ordinary Member by the Landlords' Representative indicating the system had been tested. No Certificate had been provided to the tribunal at that stage.
- (d) The Tenant confirmed to the Ordinary Member that no decoration or other making good works wee required.

A copy of the Re-inspection Report and email dated 11 July 2018 are attached.

3. By email dated 18 July 2018 the Landlords' Representative sent to the tribunal an invoice from ajm Plumbing dated 18 July 2018 which stated that on 12 July 2018 the heating system had been drained, a valve body part replaced and the system re-filled and tested.

By further email dated 31 July 2018 the Landlords' Representative sent to the tribunal a report from ajm Plumbing dated 20 July 2018 which stated that at engineer had attended at the Property on 16 May 2018 and identified that one zone of the heating system in the lounge was not working at all. One actuator was found to be broken and another faulty. Both actuators were removed at that time. The report stated that an engineer returned to the Property on 24 May and supplied and fitted two actuators. The engineer returned again on 12 July 2018 drained the system, supplied and fitted a valve body and actuator, and re-filled and tested the system which was found to be operating correctly.

4. On 7 August 2018 the tribunal received correspondence from the Tenants indicting that they agreed with the terms of the Re-inspection Report but had not tested the system due to the weather. The Tenants sought a Rent Relief Order of 30%.

On 7 August the tribunal also received correspondence from the Landlords' Representative indicating that the works required in terms of the RSEO were complete and attaching further copies of the invoice and report of ajm Plumbing referred to above.

Decision

5. The tribunal carefully considered the evidence and was satisfied that the works required in terms of the RSEO had been completed, that no works were outstanding and that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act should be granted.

The decision of the tribunal was unanimous.

Right of Appeal

6. **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 tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**
7. **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.**

Gillian Buchanan

Signed

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Date 20 August 2018

Legal Member and Chairperson

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/18/0080

Land Register Title No: ABN18830

**Property at Denmill Lodge, Peterculter, Aberdeen, AB14 0PS
("the Property")**

The Parties:-

**Mr Kaleem Khan and Mrs Erum Niaza, Denmill Lodge, Peterculter, Aberdeen,
AB14 0PS
("the Tenants")**

**Mr Anthony James Scott and Ms Deborah Morgan, c/o Aberdeen Considine,
420-424 Union Street, Aberdeen, AB10 1TQ
(represented by Aberdeen Considine, 420-424 Union Street, Aberdeen, AB10
1TQ)
("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 10 May 2018 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/

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 by Gillian Coutts Buchanan, Legal Member of the Tribunal, at Dundee on the 20th day of August 2018 in the presence of the undernoted witness:-

Gillian Buchanan

_____witness

____Legal member

Jenni Lynch
c/o 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)

Re-inspection Report

Chamber Ref: FTS/HPC/RP/18/0080

Property: Denmill Lodge Peterculter Aberdeen AB14 0PS



The Property was re-inspected on 2 July 2018 at 10.30 during a period of wet weather following a prolonged unusually warm period. The Property continued to be occupied by the tenants Mr Kaleem Khan and Mrs Erum Niaza at the time of the re-inspection.

The re-Inspection was conducted by Andrew McFarlane Ordinary Member and attended by Mr Kaleem Khan (Tenant) and Mr Andrew Reid of Aberdeen Considine (Landlord's Agents) .

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

- (a) Engage appropriate specialists to examine and test the underfloor heating system in the lounge of the Property to establish why an area is not heating and prepare a report detailing the necessary works. A copy of that report is to be provided to the tribunal.
- (b) To carry out all works deemed necessary to repair or renew underfloor heating to leave fully operational.
- (c) Test and commission entire underfloor heating system and obtain a Certificate from an appropriate person to confirm entire system fully operational. A copy of the Certificate is to be provided to the tribunal.
- (d) Carry out any and all making good and decoration associated with the foregoing works.

A period of 4 weeks was given to complete the works. This expired on 11 June 2018.

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

- (a) The Landlord's Agents had engaged contractors who had visited the property and it is understood they had determined what works were required. No report has been provided to the tribunal.
- (b) Works had been carried out to the heating manifold located in a cupboard off the inner hallway. This seems to have involved the provision of two new valves. The packaging was still on site.
- (c) A copy of an email dated 13 July 2018 from ajm Plumbing of Aberdeen was handed over by the Landlord's Agent Mr Reid indicating the system had been tested. No certificate has been provided to the tribunal.
- (d) The tenant confirmed that no decoration or other making good was required following the works.

This report comprises this page, the preceding page and four photographs.

Andrew McFarlane FRICS
Ordinary Member
20 July 2018

Reid, Andrew

From: AJM plumbing <mail@ajmplumbing.com>
Sent: 13 July 2018 15:08
To: MacFarlane, Vicki-Louise
Subject: Re: The Aul Byre

Hi Vicki,

Will be glad once 5 o'clock hits.

Please see Jamie's feedback below:

"Repaired leaking valve on underfloor heating manifold as per previous visit. Re-pressurised system and tested, all ok. Tenant then asked if I could look at towel rail. Towel rail air locked and not heating. Drained towel rail and pulled water through both pipes and cleared all air. Re-filled towel rail and tested, customer happy"

Have a good weekend when it comes.

Kind regards

Nicola Parke
Office Administrator / Accounts Assistant



1 CLAREMONT STREET
ABERDEEN
AB10 6QP

01224 313131

On 13 Jul 2018, at 11:30, MacFarlane, Vicki-Louise <vmacfarlane@acandco.com> wrote:

Hey Guys,

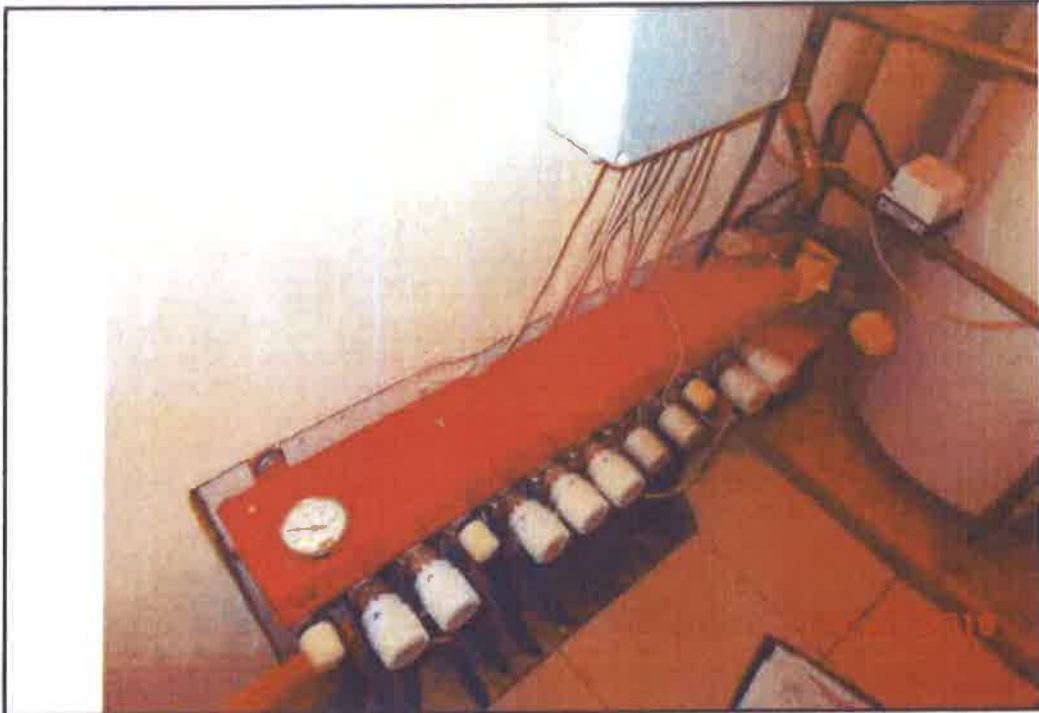
Hope youse are well,

Can you please provide a report of the works carried out at the property and confirming the underfloor heating works have been completed yesterday

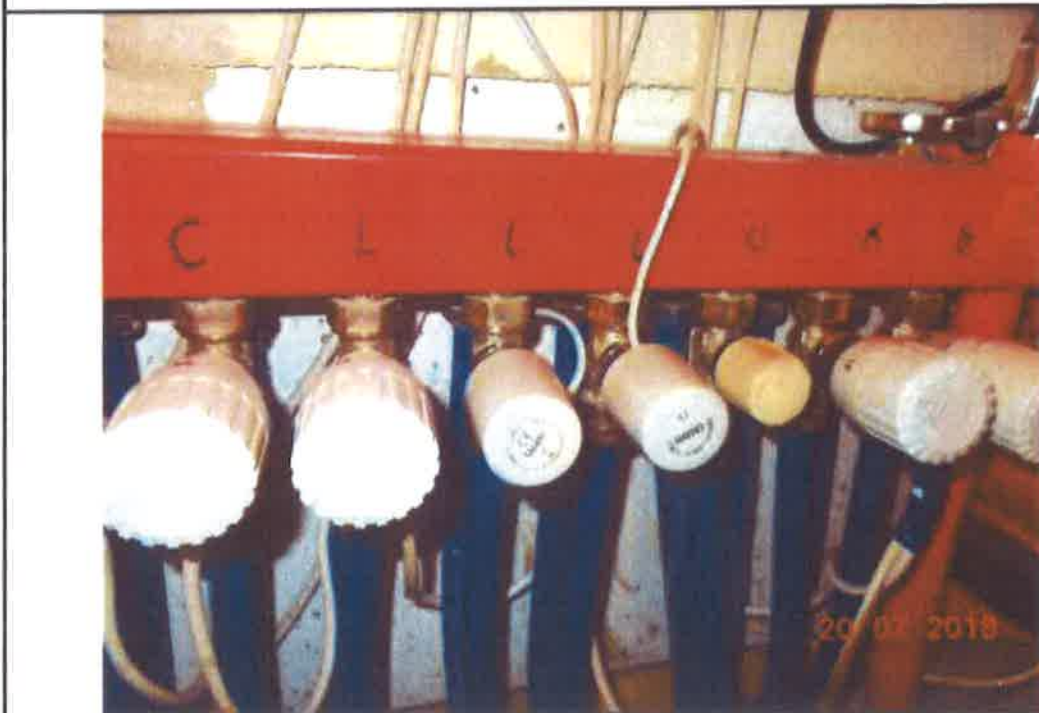
Thank you ☺

Vicki-Louise MacFarlane
Property Management Assistant | Aberdeen Considine

Property Management Helpline: 03330 045 999



1. General view of heating system manifold (new valves are 8th and 9th from left)



2. Close up of new valves on heating manifold (3rd and 4th from left)



3. General view of box formerly containing new valves



4. Close up of boxes formerly containing new valves