

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/18/0455

26 Mitchell Street, Kirkcaldy, Fife, KY1 1BD
TITLE number FFE106243
(“The House”)

The Parties:-

Miss Brenda Fonweban, 26 Mitchell Street, Kirkcaldy, Fife, KY1 1BD
(“the Tenant”)

Mr Garry Kempzell and Mrs Susan Kempzell, Schiehallion, Irongray, Dumfries,
DG2 9SF
(“the Landlord”)

represented by

Mr Mark McDonald, Fife Letting Service, 119 Victoria Road, Kirkcaldy, Fife, KY1
1DS
(“the Landlord’s representative”)

Tribunal members

Susanne L M Tanner Q.C. (Legal Member)
David Lawrie (Ordinary Member)

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 House, dated 25 July 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 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 Susanne L M Tanner, Queen's Counsel, legal member of the Tribunal,

at Edinburgh (place)
on 1 November 2018 (date)

in the presence of the undernoted witness:-

S Tanner

Susanne L M Tanner, Q.C.
Legal member

E Lourenco

_____ witness

E Lorencio _____ name in full

24 RATTRAY GROVE address

EDINBURGH EH10 5TK
UK

Housing and Property Chamber

First-tier Tribunal for Scotland



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

DECISION: Housing (Scotland) Act 2006 ("the 2006 Act"), Section 60

Chamber Ref: FTS/HPC/RP/18/0455

26 Mitchell Street, Kirkcaldy, Fife, KY1 1BD
TITLE number FFE106243
("The House")

The Parties:-

Miss Brenda Fonweban, 26 Mitchell Street, Kirkcaldy, Fife, KY1 1BD
("the Tenant")

Mr Garry Kempself and Mrs Susan Kempself, Schiehallion, Irongray, Dumfries,
DG2 9SF
("the Landlord")

represented by

Mr Mark McDonald, Fife Letting Service, 119 Victoria Road, Kirkcaldy, Fife, KY1
1DS
("the Landlord's Representative")

Tribunal members

Susanne L M Tanner Q.C. (Legal Member)
David Lawrie (Ordinary Member)

DECISION

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), having taken account of the findings of the re-inspection on 28 September 2018 and the written documentation submitted by and on behalf of the Landlord, determined that the Landlord has complied with the Repairing Standard Enforcement Order dated 25 July 2018.
2. The tribunal issued a Certificate of Completion in terms of Section 60 of the Housing Scotland Act 2006 (hereinafter "the 2006 Act").
3. The decision of the tribunal was unanimous.

STATEMENT OF REASONS

4. Findings-in-fact

- 4.1. There is adequate provision of hot water to meet the Tenant's daily requirements for showering, bathing and washing.
- 4.2. The water pressure in the shower and taps is to an acceptable standard.
- 4.3. There is an up to date gas safety certificate from a Gas Safe Registered Engineer.
- 4.4. There is an up to date Electrical Installation Condition Report from a NICEIC approved contractor.

5. Findings in fact and law

- 5.1. The Landlord has ensured that the installations in the House for the supply of water and for heating water are in a reasonable state of repair and in proper working order.
- 5.2. The Landlord has ensured that the fixtures, fittings and appliances provided by him in the House are in a reasonable state of repair and proper working order.
- 5.3. The House meets the repairing standard as specified in Section 13 of the 2006 Act.

6. Reasons

6.1. On 25 July 2018 the tribunal issued a Decision in terms of Section 24(1) of the 2006 Act and made a Repairing Standard Enforcement Order ("RSEO"), requiring the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard in Section 13 of the 2006 Act and that any damage caused by the carrying out of any work in terms of the RSEO is made good. In particular the tribunal required the Landlord:

6.1.1. To ensure that the installations in the house for the supply of water and for heating water are in a reasonable state of repair and in proper working order so that there is adequate provision of hot water to meet the Tenant's daily requirements for showering, bathing and washing.

6.1.2. To ensure that any fixtures, fittings and appliances provided by the Landlord are in a reasonable state of repair and proper working order so that the water pressure in the shower and taps is to an acceptable standard (whether by the installation of a pump, replacement of the shower or other method(s)).

6.1.3. To produce copies of an up to date gas safety certificate from a Gas Safe Registered engineer and an up to date Electrical Installation Condition Report.

6.2. The tribunal ordered that the works specified in the Order must be carried out and completed within 30 days from the date of service of the Notice.

6.3. After the RSEO was served the Landlord submitted to the tribunal's administration:

6.3.1. an Electrical Installation Report by G Brown, L&M Plumbing and Heating, dated 22 August 2018 in relation to the installation of a new shower. The report confirmed that the electrical installation was in accordance with BS EN 7671 (the IET wiring regulations) and the extent of the certificate was the shower installation only. It is noted by the tribunal that advice was given to the Landlord relative to the supply cable including advice that the Landlord should contact SP Energy Networks or the supplier.

6.3.2. an Electrical Installation Condition Report (EICR) by Ross Rankine, RB Grant Electrical Contractors, a NICEIC approved contractor, dated 29 July 2016. There are no items of unacceptable condition (C1 or C2) identified in the Electrical Installation Condition Report.


- 6.3.3. a Gas Safety Record by Ross Mackay, BR Gas Services, a Gas Safe Registered engineer, dated 3 September 2018. The gas safety record included testing of the boiler in the House and everything tested was found by the engineer to be satisfactory.
- 6.4. On 28 September 2018, a re-inspection of the House was conducted by the Ordinary member of the tribunal and a re-inspection Report dated 1 October 2018 was prepared, which is referred to for its full terms. At the time of the re-inspection items 1, 2 and 3 in the RSEO had all been dealt with. The Tenant confirmed her satisfaction that all works had been attended to, that water pressure was adequate and that there was sufficient hot water to meet her needs. The Ordinary member formed the view that all works specified in the RSEO had been completed and that no works were outstanding.
- 6.5. The re-inspection report dated 1 October 2018 was sent to parties on 5 October and they were advised that they had the right to request an oral hearing to give their response to the report to the tribunal, within 7 working days of the date of the letter. Parties were also advised that they had the right to send written representations to give their response to the report to the tribunal, whether or not a hearing was requested, by 19 October 2018. Parties were further advised that if no written request for a hearing was received from any party, then it would be assumed that they wish the tribunal to make a decision on the basis of any written representations received.
- 6.6. Neither party requested an oral hearing or submitted written representations.
- 6.7. The tribunal is satisfied, having considered the written documentation submitted by the Landlord, and the findings on re-inspection on 28 September 2018, that the works in the RSEO have been completed.
- 6.8. The tribunal therefore decided to issue a Certificate of Completion in terms of Section 60 of the 2006 Act.

7. Right of Appeal

- 7.1. A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**
- 7.2. 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.

S Tanner

Signed  Susanne L M Tanner, Queen's Counsel
Legal Member and Chairperson of the tribunal

Date 1 November 2018