

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/18/0602

**Southmost first floor flat, 13 North Ellen Street, Dundee, as more particularly described in the disposition by Tayview Property Company Limited to James Brown Thow and another, recorded in the General Register of Sasines 24 January 1983
("The House")**

The Parties:-

**Mr Aminul Islam, southmost first floor flat, 13 North Ellen Street, Dundee
("the Tenant")**

**Mrs Tahmina Ismail, 11 Alford Gardens, Broughty Ferry, Dundee, formerly residing at 4 Westfield Place, Dundee
("the Landlord")**

represented by

**Mr Habib Chowdhury, Shampan Property, 11 Alford Gardens, Broughty Ferry, Dundee, DD5, 1QY
("the Landlord's Representative")**

Tribunal members

**Susanne L M Tanner Q.C. (Legal Member)
David Godfrey (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 1 August 2018, has been completed, albeit outwith the specified period of 30 days of service of the notice of the RSEO. 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 8 March 2019 (date)

in the presence of the undernoted witness:-

S Tanner

Susanne L. M. Tanner, Q.C.
Legal Member / Chair
L Ahmed

— witness

LISA AHMED
6 Frogston Road
West, Edinburgh
EH10 7AR

name in full

address

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/18/0602

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The Parties:-

Mr Aminul Islam, southmost first floor flat, 13 North Ellen Street, Dundee
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("the Landlord's Representative")

Tribunal members

Susanne L. M. Tanner Q.C. (Legal Member)
David Godfrey (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 27 September 2018 and second re-inspection on 14 February 2019 and the written documentation submitted by and on behalf of the parties in relation to the matters in the Application, determined that the Landlord has complied with the Repairing Standard Enforcement Order dated 1 August 2018, albeit outwith the specified period of 30 days of service of the notice of the RSEO.
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. The insect infestation in the House has been treated/eradicated and the Landlord has produced documentation to the tribunal to confirm that has been done.
- 4.2. The areas of dampness on the wall in the rear bedroom have been removed.
- 4.3. The pointing on the rear external wall of the tenement in which the House is situated has been repaired and the House is watertight.
- 4.4. The two defective internal bedroom doors have been repaired / replaced to ensure that both are securely hung in the door frames and can be opened safely and closed securely.
- 4.5. The smoke and heat detectors have been relocated to ensure that they comply with existing Scottish Government guidance about positioning and inter-linking of the same.
- 4.6. The landlord has produced an up to date Electrical Installation Condition Report prepared by a competent person showing that an inspection has taken place after the relocation or replacement of the said smoke and heat detectors.

5. Findings in fact and law

- 5.1. The Landlord has ensured that the house is wind and water tight and in all other respects reasonably fit for human habitation, in accordance with the 2006 Act, Section 13(1)(a).
- 5.2. The Landlord has ensured that the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order, in accordance with the 2006 Act, Section 13(1)(b).
- 5.3. The Landlord has ensured that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, in accordance with the 2006 Act, Section 13(1)(c).
- 5.4. The Landlord has ensured that the House has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, in accordance with the 2006 Act, Section 13(1)(e).
- 5.5. The House meets the repairing standard as specified in Section 13 of the 2006 Act.

6. Reasons

- 6.1. On 26 June 2018, an inspection of the Property and an oral hearing took place.
- 6.2. On 26 June 2018, after the hearing, the Landlord's Representative submitted to the tribunal's administration an invoice and report from Andy Law Pest Control, dated 27 June 2018 and 11 July 2018; and an Electrical Installation Condition Report from Lexy Group dated 9 June 2018.
- 6.3. On 1 August 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:
 1. To treat and eradicate the insect infestation in the House and produce documentation to the tribunal to confirm that has been done.
 2. To remove the areas of dampness on the wall in the rear bedroom.

3. To repair the pointing on the rear external wall of the tenement in which the House is situated and ensure that the House is watertight.
 4. To repair or replace the two defective internal bedroom doors to ensure that both are securely hung in the door frames and can be opened safely and closed securely.
 5. To relocate or replace the smoke and heat detectors to ensure that they comply with existing Scottish Government guidance about positioning and inter-linking of the same.
 6. To produce an up to date Electrical Installation Condition Report prepared by a competent person showing that an inspection has taken place after the relocation or replacement of the said smoke and heat detectors.
- 6.4. 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.
- 6.5. The RSEO was sent to the parties by letter of 6 August 2018.
- 6.6. On 13 September 2018, parties were advised that a re-inspection had been arranged for 27 September 2018 and their views were sought by 20 September 2018 as to whether the items in the RSEO had been completed.
- 6.7. On 24 September 2018, the Tenant submitted written representations, stating that in his opinion the works in the RSEO had not been completed. No response was received from the Landlord or Landlord's Representative.
- 6.8. On 27 September 2018, a re-inspection of the house was conducted by the Ordinary member of the tribunal and a re-inspection Report dated 27 September was prepared, which is referred to for its full terms. In addition to noting the content of the documentation from Andy Law Pest Control, the Ordinary Member noted that the southmost rear bedroom door had been replaced and the front bedroom door had been re-hung and both could be opened safely and closed securely. The Ordinary Member was of the view that all other items in the RSEO were outstanding at that time.
- 6.9. The re-inspection report dated 27 September 2018 was sent to parties on 9 October 2018 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 23 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.

- 6.10. Neither party submitted written representations or requested an oral hearing during the specified period.
- 6.11. On 25 October 2018, the Landlord's Representative submitted written representations stating works had been delayed due to his illness. He stated that the living room smoke detector was due to be relocated and thereafter a fresh EICR would be obtained; and that one quotation had been received for damp works but that he wished to obtain a second quotation before instructing works.
- 6.12. On 31 October 2018, the tribunal's administration responded to the Landlord's Representative advising that the period for compliance with the RSEO had passed and that if he wished to request a variation of the RSEO to seek further time for compliance, he would require to submit a variation request within 7 days and the tribunal would require to seek the views of the Tenant before determining whether to grant any such request.
- 6.13. The Landlord's Representative did not submit a request to vary the terms of the RSEO.
- 6.14. On 6 November 2018 the Landlord's Representative submitted written representations stating that all outstanding items in the RSEO had been completed and attached photographs and an Electrical Installation Condition Report dated 2 November 2018, from Ross Findlay, Lexy Group (on checking by the tribunal's administration he was found not to be a NICEIC approved contractor.)
- 6.15. On 11 January 2019, the Landlord's Representative submitted an Electrical Installation Condition report dated 28 December 2018, by Kevin Hirons, a NICEIC approved contractor.
- 6.16. On 11 January 2019, the Landlord's Representative submitted an invoice and quotation from Lexy Group dated 15 November and 18 October 2018, in respect of stripping out damp plasterboard in the rear bedroom and external re-pointing;
- 6.17. On 14 February 2019, a second re-inspection of the House was conducted by the Ordinary member of the tribunal and a re-inspection Report dated 14 February 2019 was prepared, which is referred to for its full terms. The

Ordinary Member noted that the following items had been carried out prior to the second re-inspection:

- 6.17.1. The internal face of the external wall of the northmost rear bedroom had been re-plastered. Damp meter readings were taken during the inspection and the wall appeared to be free from dampness.
 - 6.17.2. The pointing on the rear external wall of the tenement had been repaired.
 - 6.17.3. The living room smoke detector had been relocated.
 - 6.17.4. An Electrical Installation Condition report by Kevin Hirons, dated 28 December 2018, had been provided.
- 6.18. The Ordinary Member formed the view after the second re-inspection that all items in the RSEO had been completed. In his Report, the Ordinary Member recorded that during the second re-inspection the Tenant raised a number of other repairs issues with the tribunal and the Landlord's agent, which were not in the Application before the tribunal.
- 6.19. The second re-inspection report dated 14 February 2019 was sent to parties on 19 February 2019 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 5 March 2019. 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.
- 6.20. Neither party requested an oral hearing or submitted written representations in relation to the matters in the Application.
- 6.21. On 22 February 2019, the Tenant submitted written representations in relation to other matters not contained within the Application of 15 March 2018, namely: (i) radiators not working properly since mid-December 2018; (ii) living room door hanging off; (iii) broken tiles in the toilet; (iv) wallpaper hanging off in the toilet; and (v) multiple visits from engineers and electricians (issues not specified). On 1 March 2019 the tribunal sent a copy of the Tenant's written representations to the Landlord. On 7 March 2019, the tribunal's administration replied to the Tenant to advise that the tribunal could not consider matters which were not the subject of the present Application

but that a new application could be made to the tribunal in relation to these matters, following the required notification to the Landlord.

6.22. The tribunal is satisfied, having considered the written documentation submitted by parties, and the findings on the re-inspection on 27 September 2018 and second re-inspection on 14 February 2019 that the works in the RSEO dated 1 August 2018 have been completed, albeit that they were not completed within the specified period of 30 days from the notice of the RSEO and no variation of the said period was requested by or on behalf of the Landlord.

6.23. 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 7 March 2019