

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 60 of the Housing (Scotland) Act 2006 (Refusal to Grant a Certificate of Completion)**

**Chamber Ref: PRHP/RP/16/0321**

**Title no: DMB65482**

**141 Braehead, Bonhill, Alexandria, G83 9NB  
("the house")**

**The Parties:-**

**Ms Ann McLaughlin, residing at the house ("the Tenant")**

**Mr Calum Watt, CPW Property Investment, Centrum Offices, 38 Queen Street, Glasgow, G1 3DX, represented by his agent, Mr John Haughey, Infiniti Property Services ("the Landlord")**

### **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 now complied with the Repairing Standard Enforcement Order (RSEO) relative to the house dated 10 April 2017 determined that the Landlord has still not complied with the RSEO and that a Certificate of Completion should not be issued.**

**The Tribunal comprised:-**

**Mrs Nicola Weir, Legal Member (Chair)**

**Mr Robert Buchan, Ordinary (Surveyor) Member**

### **Background**

- 1. On 24 January 2017, the Tribunal issued a determination that the Landlord had failed to comply with his duties under Section 14(1)(b) of the Housing (Scotland) Act 2006, as amended ("the Act"). On the same date, the Tribunal issued an RSEO in respect of the house.**
- 2. The RSEO required the Landlord:-**

- (a) To repair, or, as necessary replace, the rear patio door to ensure that it is lockable and otherwise in a reasonable state of repair and proper working order, wind and watertight and in all other respects reasonably fit for human habitation. In particular, the patio door requires to provide a safe means of exit and entry to the house and to conform with building regulations in terms of the width of the door opening, a platform outside the door/the steps down into the rear garden and the handrail. A letter from the local Building Standards section of West Dunbartonshire Council confirming that the patio door conforms to building regulations or is otherwise satisfactory to said Building Standards section requires to be submitted to the Tribunal.
- (b) To repair or replace the exterior render above the living room window to ensure that it is in a reasonable state of repair and proper working order.
- (c) To carry out such works to the house as are necessary to comply with Section 13(1)(g) of the Act by the installation of a carbon monoxide (CO) detection system in accordance with the current Scottish Government Statutory Guidance for the Provision of Carbon Monoxide Alarms in Private Rented Housing, a copy of which can be found at <https://www.housingandpropertychamber.scot/repairs/repairs-application-and-guidance>.
- (d) To submit to the Tribunal an up to date and satisfactory Electrical Installation Condition Report (EICR) in respect of the installations in the house for the supply of electricity and the electrical fixtures and fittings, including the smoke detectors and heat alarm in the kitchen, from a suitably qualified and registered SELECT or NICEIC electrical contractor, in accordance with the current Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property, which can be found at <https://www.housingandpropertychamber.scot/repairs/repairs-application-and-guidance>.
- (e) To make good the plaster repair to the bedroom ceiling by painting/decorating same to provide a satisfactory finish.
- (f) To repair or replace the rear boundary fence to ensure that it is in a reasonable state of repair and proper working order.

The Tribunal ordered that the works specified in the RSEO must be carried out and completed within the period of 2 months from the date of service of the RSEO.

3. Following a Re-inspection of the house on 4 May 2017 and further procedure, the Tribunal subsequently determined that, although some works had been carried out, the Landlord had failed to fully comply with the terms of the RSEO, in terms of Section 26(1) of the Act and made a Rent Relief Order whereby there was a reduction of 40% in the rent payable by the Tenant in respect of the house, in terms of Section 27 of the Act. The Tribunal's Decision and Rent Relief Order were both dated 16 August 2017.

4. On 13 June 2019, the Landlord emailed the Tribunal confirming that all repairs relating to the RSEO had been carried out and requesting a further Re-inspection of the house.
5. The Tribunal Re-inspected the house on 5 August 2019. The Tenant and the Landlord's agent, Mr Haughey were in attendance. A copy of the Ordinary Member's Re-inspection Report dated 17 September 2019 is attached to this Decision. The Re-inspection Report was issued to parties, requesting their comments. No comments nor requests for a further Hearing have been received from either party. The Tribunal was accordingly of the view that a further Hearing was not required on these matters and proceeded to make their decision.

### **Findings in Fact**

6. The terms of the Re-inspection Report dated 17 September 2019 are referred to as to the Tribunal's findings on Re-inspection of the house.
7. Although further works have been carried out to the house and most requirements of the RSEO now met, an Electrical Installation Condition Report (EICR) has still not been provided to the Tribunal.
8. Paragraph (d) of the RSEO has not been complied with and remains outstanding.

### **Reasons for Decision**

9. The Tribunal considered whether all the works stipulated in the RSEO have been completed and all requirements of the RSEO met.
10. The Tribunal not being satisfied that all requirements of the RSEO have been met, having allowed a further opportunity after the Re-inspection for an EICR to be produced and having received no comments from the Landlord disputing the terms of the Re-inspection Report nor seeking further time to produce an EICR, accordingly took the view that a Certificate of Completion should not be issued.

### **Decision**

11. The Tribunal determined that the Landlord had still not complied with the RSEO and that a Certificate of Completion should not be issued.
12. The decision of the Tribunal was unanimous.

## Right of Appeal

**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.**

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.

N Weir

Signed..... Date: 24 November 2019

Legal Member and Chair

*Glasgow 24 November 2019*

*This is the Re-inspection Report referred to  
in the attached Statement of Decision of  
even date herewith.*

N Weir

*Legal Member and Chair*

## Housing and Property Chamber First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)  
Housing (Scotland) Act 2006  
Re-inspection report



**Property:** 141 Braehead, Alexandria, G83 9NB

**Date of inspection:** 5th August 2019

**Chamber Reference Number:** PRHP/RP/16/0321

**Tribunal members:** Mrs Nicola Weir, Legal Member (Chairperson)  
Ordinary member (Surveyor) Robert Buchan

**Circumstances of the inspection:** The property was occupied by the tenant, Ms Ann McLaughlin, and full access was provided. The weather was dry following a mixed spell of weather.

**In attendance:** The tenant and Mr John Haughey, agent for the landlord.

### **Repairing Standard Enforcement Order (RSEO)**

The Landlord was required to carry out the following work under the terms of the RSEO:

- (a) To repair, or, as necessary replace, the rear patio door to ensure that it is lockable and otherwise in a reasonable state of repair and proper working order, wind and watertight and in all other respects reasonably fit for human habitation. In particular, the patio door requires to provide a safe means of exit and entry to the house and to conform with building regulations in terms of the width of the door opening, a platform outside the door/the steps down into the rear garden and the handrail. A letter from the local Building Standards section of West Dunbartonshire Council confirming that the patio door conforms to building regulations or is otherwise satisfactory to said Building Standards section requires to be submitted to the Tribunal.
- (b) To repair or replace the exterior render above the living room window to ensure that it is in a reasonable state of repair and proper working order.
- (c) To carry out such works to the house as are necessary to comply with Section 13(1)(g) of the Act by the installation of a carbon monoxide (CO) detection system in accordance with the current Scottish Government Statutory Guidance for the Provision of Carbon Monoxide Alarms in Private Rented Housing, a copy of which can be found at <https://www.housingandpropertychamber.scot/repairs/repairs-application-and-guidance>.
- (d) To submit to the Tribunal an up to date and satisfactory Electrical Installation Condition Report (EICR) in respect of the installations in the house for the supply of electricity and the electrical fixtures and fittings, including the smoke detectors and heat alarm in the kitchen, from a suitably qualified and registered SELECT or NICEIC electrical contractor, in accordance with the current Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property, which can be found at <https://www.housingandpropertychamber.scot/repairs/repairs-application-and-guidance>.
- (e) To make good the plaster repair to the bedroom ceiling by painting/decorating same to provide a satisfactory finish.

To repair or replace the rear boundary fence to ensure that it is in a reasonable state of repair and proper working order.

A re-inspection had been undertaken on the 4th May 2017 following which a failure to comply notice had been made. This further re-inspection was

undertaken following notification received from the landlord that the works had been completed.

**Works undertaken:** The Landlord has undertaken the following work since the previous inspections and hearing:

- 1) The patio door has been removed and the previous arrangement of a back door has been re-instated. The top step has been heightened. The loose render has been repaired.
- 2) The render above the living-room window has been repaired.
- 3) A carbon monoxide detector has been fitted in the kitchen.
- 4) The bedroom ceiling has been redecorated. Mr Haughey pointed out that it has not dropped any further.
- 5) The garden fence has been repaired including making the gate capable of being opened and closed safely.

**Outstanding works:**

A satisfactory Electrical Installation Condition Report (EICR) has not been provided. At the inspection, Mr Haughey said that he thought it had been sent to the Tribunal but that he would look it out and re-send the report.

Following the re-inspection the administration confirmed that the report had not been received. This report has been prepared after allowing 3 weeks for the EICR to be sent but as at the time of this report, the EICR has still not been received.

This report will be submitted to the relevant parties for their consideration and comment. Once their submissions, if any, have been received, the Tribunal will determine whether the Repairing Standard Enforcement Order has been complied with.

Photographs taken at the time of the re-inspection are attached.

R Buchan

Robert Buchan, FRICS

Date of report: 17th September 2019.

Photographs taken during the re-inspection of  
141 Braehead, Alexandria, G83 9NB



Front window



Ceiling



Photographs taken during the re-inspection of  
141 Braehead, Alexandria, G83 9NB



Rear



New back door

Photographs taken during the re-inspection of  
141 Braehead, Alexandria, G83 9NB



Back door step



Repaired fence