

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Certificate of Completion of Work: Housing (Scotland) Act 2006 Section 60

Property: 16/3 Magdalene Gardens, Edinburgh EH15 3DQ (“the Property”)

Sasine Description: ALL and WHOLE the dwellinghouse known as 16/3 Magdalene Gardens, Edinburgh in the County of Midlothian, being the eastmost house on the first floor above the street or ground floor of the block of flatted dwellinghouses Numbers 16/1 to 16/6 (inclusive) Magdalene Gardens aforesaid of which it forms part, and being the subjects more particularly described in and in feu farm disposed by Feu Disposition by City of Edinburgh Council in favour of Tamala Orlina Mhura, dated 18 February and recorded in the Division of the General Register of Sasines applicable to the County of Midlothian 16 March, both months in the year 1999.

Chamber Reference: FTS/HPC/RP/17/0154

Ms Symone Flanagan, sometime residing at 16/3 Magdalene Gardens, Edinburgh EH15 3DQ (“the Tenant”)

Ms Tamala Mhura, 41 Granton Mill Drive, Edinburgh EH4 4UD (“the Landlord”)

Tribunal Members – George Clark (Legal Member/Chair) and Greig Adams (Ordinary Member/Surveyor)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) hereby certifies that the work required by the Repairing Standard Enforcement Order relative to the Property made on 3 April 2018 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

Right of Appeal

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.

In witness whereof these presents typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, Legal Member/Chair of the tribunal at Lasswade, Midlothian on 15 August 2018 before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

G Clark

V Clark

_____ Legal Member/Chair

_____ witness

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 26 (1) of the Housing (Scotland) Act 2006

Property: 16/3 Magdalene Gardens, Edinburgh EH15 3DQ (“the Property”)

Chamber Reference: FTS/HPC/RP/17/0154

Parties:

Ms Symone Flanagan, sometime residing at 16/3 Magdalene Gardens, Edinburgh EH15 3DQ (“the Tenant”)

Ms Tamala Mhura, 41 Granton Mill Drive, Edinburgh EH4 4UD (“the Landlord”)

Tribunal Members – George Clark (Legal Member/Chair) and Greig Adams (Ordinary Member/Surveyor)

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 complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”), determined that the Landlord had carried out the work required by the Repairing Standard Enforcement Order made on 3 April 2018 and that a Certificate of Completion of Works should be issued.

Background

1. By application received on 21 April 2017, the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The application stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard.

3. The Tribunal inspected the Property on the morning of 3 April 2018 and, at a hearing held thereafter, issued a Repairing Standard Enforcement Order (“the Order”) in respect of the Property.
4. The Order required the Landlord:
 - (1) to exhibit to the Tribunal a current Gas Safety Certificate in respect of the Property, issued by a Gas Safe registered engineer
 - (2) to exhibit to the Tribunal a current Electrical Installation Condition Report, containing no C1 or C2 items of disrepair and covering the electric shower installation, issued by an electrical contractor who is registered either with NICEIC or with SELECT
 - (3) to exhibit to the Tribunal a satisfactory PAT Test report in respect of the portable appliances (the fridge-freezer and microwave oven) in the Property provided by the Landlord
 - (4) to carry out such works as are necessary to restore the kitchen units in the Property to proper working order, or to replace them
 - (5) to replace the vinyl flooring in the kitchen
 - (6) to carry out such repairs as are necessary to restore the laminate flooring throughout the Property to ensure that it can be used safely and that it no longer represents a tripping hazard and
 - (7) to carry out such repairs to the windows in the bathroom and the two rear bedrooms of the Property as are necessary to restore them to good working order and free from impairment.

The Tribunal ordered that the works required by the Order must be carried out within the period of 8 weeks from the date of service of the Order.

5. The Landlord subsequently provided to the Tribunal, on 23 June 2018, a current Gas Safety Certificate and a Minor Electrical Installation Works Certificate, confirming that all C2 works previously deeming the electrical installation as “unsatisfactory” had been remedied. The Landlord also provided a Portable and Fixed Appliance Test Certificate dated 19 June 2018, showing appliances as a “pass”.

6. The Ordinary Member/ Surveyor of the Tribunal reinspected the Property on 1 August 2018 and reported that all the work required by the Order had been completed., apart from the replacement of the doors of the kitchen units, but that this work was currently under way. A copy of the reinspection report is attached to and forms part of this Statement of Decision.

Findings of fact

7. The Tribunal makes the following findings of fact:
 - The tribunal has had sight of a current Gas Safety Certificate.
 - The Tribunal has had sight an Electrical Installation Condition Report equivalent, namely a Minor Electrical Installation Works Certificate.
 - The Tribunal has had sight of a PAT (portable appliance test) certificate.
 - Repair work on the kitchen units has progressed and is nearly completed.
 - The vinyl flooring in the kitchen has been replaced.
 - The laminate flooring has been replaced.
 - Window overhaul works have been carried out and the windows referred to in the Order are in operational condition.

Reasons for the decision

8. The Tribunal is satisfied with the documentation provided by the Landlord and is satisfied that the work required by the Order has been carried out to an acceptable standard. The minor work outstanding in respect of the doors of the kitchen units is clearly under way.
9. The Tribunal is, therefore, satisfied that it can issue a Certificate of Completion of Works.
10. The decision of the tribunal was unanimous.

Right of Appeal

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.

G Clark

Signed ..

Date: 15 August 2018

..... Legal Member/Chairperson

Housing and Property Chamber First-tier Tribunal for Scotland



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

Re-Inspection Report

Chamber Reference: FTS/HPC/RP/17/0154



*This is the
Reinspection Report
referred to in the
Jorgensen Statement
of Decision dated
15 August 2018*

G Clark

George Clark

Property: 16/3 Magdalene Gardens, Edinburgh EH15 3DQ ("the Property")
The Parties:-

Ms Symone Flanagan, sometime residing at 16/3 Magdalene Gardens, Edinburgh EH15 3DQ ("the Tenant")

Ms Tamala Mhura, 41 Granton Mill Drive, Edinburgh EH4 4UD ("the Landlord")

TRIBUNAL Members

George Clark (Legal Member/Chair)
Greig Adams (Ordinary Member/Surveyor)

Background: The Tribunal issued a Decision on 3 April 2018 requiring the Landlord to comply with the Repairing Standard Enforcement Order (RSEO) relative to the property. The RSEO required completion of the works specified within the order within a period of 8 weeks from the date of service of the notice.

Access: The re-inspection was undertaken on Wednesday 1 August 2018. The inspection extended to a survey of the specified works detailed within the RSEO.



Mr Adams was accompanied by the Landlord's brother within the property and throughout the inspection.

Purpose of Re-inspection: The purpose of the re-inspection was to investigate whether work required under the Repairing Standard Enforcement Order has been completed.

Works required under the Repairing Standard Enforcement Order (RSEO): The RSEO required the Landlord:

1. To exhibit to the Tribunal a current Gas Safety Certificate in respect of the Property, issued by a Gas Safe registered engineer.
2. To exhibit to the Tribunal a current Electrical Installation Condition Report, containing no C1 or C2 items of disrepair and covering the electrical shower installation, issued by an electrical contractor who is registered either with NICEIC or with SELECT.
3. To exhibit to the Tribunal a satisfactory PAT test report in respect of the portable appliances (the fridge-freezer and microwave oven) in the Property provided by the Landlord.
4. To carry out such works as are necessary to restore the kitchen units in the Property to proper working order, or to replace them.
5. To replace the vinyl flooring in the kitchen.
6. To carry out such repairs as are necessary to restore the laminate flooring throughout the Property to ensure that it can be used safely and that it no longer represents a tripping hazard and
7. To carry out such repairs to the windows in the bathroom and the two rear bedrooms of the Property as are necessary to restore them to good working order and free from impairment.

The Tribunal ordered that the works specified in the Order must be carried out and completed within 8 weeks from 3 April 2018.

The re-inspection found:

1. A satisfactory Gas Safety Certificate prepared by Arc (Edin) Ltd was provided to the Tribunal showing the date of next inspection as 22 June 2018.
2. A Minor Electrical Installation Works Certificate was submitted 22 June 2018 confirming that all C2 works previously deeming the Electrical Installation as "unsatisfactory" had been remedied.



3. A Portable and Fixed Appliance Test Certificate dated 19 June 2018 was submitted to the Tribunal showing appliances as a “pass”.
4. Repair works has been progressed to the kitchen units, however the doorfronts were in the process of replacement at the time of inspection.
5. Vinyl flooring had been replaced within the Kitchen.
6. Laminate flooring had been replaced.
7. Window overhaul works had been progressed and these parts were in operational condition.

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 and what further action is appropriate.

Greig Adams BSc (Hons) FRICS C. Build E FCABE LETAPAEWE
Surveyor Member
First-tier Tribunal for Scotland (Housing and Property Chamber)



Appendix A – Photographic Record



1 Front Elevation



2 New laminate flooring.



3 New laminate flooring.



4 Kitchen.



5 Boiler.



6 Electrical Consumer Unit.



7 Showers.



8 Bathroom.



9 Windows.