

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/17/0004

Title no/Sasines Description: FFE68141

5 Cherrybank, Dunfermline, Fife KY12 7RG ("the Property")

The Parties:-

Mr Kristian Dela Cour, formerly residing at 5 Cherrybank, Dunfermline, Fife KY12 7RG ("the Tenant")

Mr John Jenkins, 23 Fodbank View, Dunfermline KY11 4UA and 158 Halbeath Road, Dunfermline KY11 4LB ("the Landlord")

Your Move, 31A North Bridge Street, Bathgate, West Lothian, EH48 4PJ ("Agent for the Landlord")

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 served on 13 March 2017 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 are executed by Susan Christie, Legal Member of the Tribunal, at Glasgow on the 4 August 2017 in the presence of the undernoted witness:-

	S Christie	
Witness		Legal Member

George Harvey Christie name in full

5 Albert Drive, Glasgow, G733RT address

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 60 Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/17/0004

Title no/Sasines Description: FFE68141

5 Cherrybank, Dunfermline, KY12 7RG ("The Property")

The Parties:-

Mr Kristian Dela Cour, formerly residing at 5 Cherrybank, Dunfermline, Fife KY12 7RG ("the Tenant")

Mr John Jenkins, 23 Fodbank View, Dunfermline KY11 4UA and 158 Halbeath Road, Dunfermline KY11 4LB ("the Landlord")

Your Move, 31A North Bridge Street, Bathgate, West Lothian, EH48 4PJ ("Agent for the Landlord")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprised: -

Susan Christie - Legal/Chairing Member

David Godfrey - Ordinary Member

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 Repairing Standard Enforcement Order (RSEO) relative to the Property dated 13 March 2017 determined that the Landlord has complied with the Order and that a Certificate of Completion to that effect should be issued.

Background

1. The Tribunal issued a Decision dated 13 March 2017 requiring the Landlord to comply with the Repairing Standard Enforcement Order (RSEO) relative to the Property, issued by the Tribunal on 13 March 2017 .
2. The RSEO required the Landlord to instruct a suitably qualified and reputable contractor to repair or replace the shower situated in the upper Shower Room of the property so as to ensure adequate temperature and pressure are consistently maintained during ordinary use and ensure the shower is in a reasonable state of repair and in proper working order; and in the event that the works carried out include replacement of the central heating boiler in the property, the Landlord shall in addition exhibit to the Tribunal an unqualified Gas Safety Certificate.

The Tribunal ordered that the works specified in this Order must be carried out and completed within the period of six weeks from the date of service of the RSEO.

3. On 19 May 2017, the Surveyor member re-inspected the Property. He found that:
The works in the Repairing Standard Enforcement Order which had been completed since the original inspection were: the shower situated in the upper Shower Room of the Property had been repaired. The shower was operated and was found to provide adequate temperature and pressure and functions properly and safely and the shower is in a reasonable state of repair and in proper working order; the central heating boiler had been replaced. The kitchen cooker had also been replaced.
The work in the Repairing Standard Enforcement Order which was outstanding following the re-inspection was: an unqualified Gas Safety Certificate had not been provided, however a Gas Safe Register – Building Regulations Compliance Certificate submitted by Sean Brown Plumbing and Heating dated 1/5/17 was provided. A copy of the re-inspection Report is attached to this decision.
4. The re-inspection Report was issued to the Parties on 30 May 2017. The Landlord provided a written response on 2 June 2017. He agreed with the findings of the re-inspection Report and did not wish a hearing. He indicated the tenancy over the Property had terminated.
5. The Tribunal considered the documentation and considered that the Landlord might have mistaken the Gas Safe installation certificate as an unqualified Gas Safety Certificate. He was issued with a letter in clarification of what was required by the Tribunal on 16 June 2017 and afforded 7 days to reply.
6. On 21 June 2017, the Landlord responded by sending into the Tribunal office a Domestic/Landlord Gas Safety Record dated 16 March 2017. This Certificate referred to the installation address as 158 Halbeath Road, Dunfermline, Fife, KY114LB, not the Property.

7. On 3 July 2017, a further letter was issued by the Tribunal to the Landlord advising him that the Certificate provided related to another address and not the Property address and the Landlord was provided with a further opportunity to respond.
8. On 4 July 2017, the Landlord provided a Gas Safety Certificate for the Property. However, the certificate provided dated 3 March 2017 showed that the external flue to the Glow-worm Space saver boiler required to be secured and that a Belling cooker within the Property was not safe to use. This certificate related to the old boiler and cooker within the Property. The Landlord, by letter to the Tribunal of that date, requested an extension of time to allow him to comply with the only outstanding part of the RSEO, namely the production of an unqualified Gas Safety Certificate for the Property. He stated his plumber was now on annual leave and he had left a message for him to contact the Landlord on his return to provide the correct certificate for onward transmission to the Tribunal.
9. Having considered the request and having regard to the work already carried out in part implementation of the RSEO by the Landlord, the Tribunal proceeded to grant a variation of the RSEO by extending the period for completion of the works for the Property for a further period of six weeks until 31 August 2017.
10. On 18 July 2017, the Landlord provided the Tribunal with a Gas Safety Certificate headed "Domestic/Landlord Gas Safety Record," dated 10 July 2017. There was however a typographical error on this document and it had been amended from 19 Cherrybank, Dunfermline, Fife to number 5 in pen.
11. On 21 July 2017, the Landlord provided a newly amended unqualified Gas Safety Certificate headed "Domestic/Landlord Gas Safety Record" for the Property to the Tribunal dated 19 July 2017. A copy of that certificate is produced and signed as accompanying this decision.

Reasons for Decision

12. The Tribunal considered the findings of the Surveyor Member who re-inspected the Property and found that the works in the RSEO which had been completed since the original inspection were that the shower situated in the upper Shower Room of the Property had been repaired. The shower was operated and was found to provide adequate temperature and pressure and functions properly and safely and the shower is in a reasonable state of repair and in proper working order. Further, the central heating boiler had been replaced.
The kitchen cooker had also been replaced.
13. Whilst an unqualified Gas Safety Certificate had not been provided at the date of re-inspection, a Gas Safe Register – Building Regulations Compliance Certificate submitted by Sean Brown Plumbing and Heating dated 1/5/17 was provided. This certificate was not the correct one to satisfy the terms of the

RSEO. Therefore, at the date of the re-inspection the only work required to be carried out was the provision to the Tribunal of the correct Gas Safety Certificate.

14. On 18 July 2017, the Landlord provided the Tribunal with a Gas Safety Certificate headed "Domestic/Landlord Gas Safety Record," dated 10 July 2017. It appeared that there was a typographical error on this document, as it had been amended from number 19 to number 5 Cherrybank, Dunfermline, Fife in pen. The amendment was not authenticated in any way by the author.
15. On 21 July 2017, the Landlord provided the Tribunal with a newly amended unqualified Gas Safety Certificate headed "Domestic/Landlord Gas Safety Record" for the Property dated 19 July 2017. This satisfied the Tribunal in all respects.
16. The Tribunal thereafter concluded that all the works required in terms of the RSEO had now been carried out and that a Certificate of Completion to that effect should be issued.

Summary of Decision

17. The Tribunal accordingly determined that the Landlord had complied with the RSEO and proceeded to issue a Certificate of Completion.
18. 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.

Signed

Date 4 August 2017

Legal Member Susan Christie

Housing and Property Chamber

First-tier Tribunal for Scotland



RE-INSPECTION REPORT



Property: 5 CHERRYBANK, DUNFERMLINE, FIFE KY12 7RG

Ref no: FTS/HPC/RP/17/0004

Surveyor: David Godfrey

Inspection: The property was inspected at 1.00 pm Friday 19th May 2017.

Access: Mr John Jenkins (Landlord) was present and provided access to the property.

Mr Kristian Dela Cour (Tenant) no longer resides in the property and was neither present nor represented.

Repairing Standard Enforcement Order:

the tribunal now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the property concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular, the tribunal requires the landlord: -

(a) To instruct a suitably qualified and reputable contractor to repair or replace the shower situated in the upper Shower Room of the property so as to ensure adequate temperature and pressure are consistently maintained during ordinary use and ensure the shower is in a reasonable state of repair and in proper working order; and

in the event that the works carried out include replacement of the central heating boiler in the property, the Landlord shall in addition exhibit to the Tribunal an unqualified Gas Safety Certificate.

*The tribunal order that the works specified in this Order must be carried out and completed within the period of **six weeks** from the date of service of this Notice.*

General Remarks:

The property was initially inspected at 10.00 am Wednesday 8th March 2017 by Susan Christie and David Godfrey.

Works in Repairing Standard Enforcement Order completed since original inspection:

1. The shower situated in the upper Shower Room of the property has been repaired. The shower was operated and was found to provide adequate temperature and pressure and functions properly and safely
2. The central heating boiler has been replaced.
3. The Kitchen cooker has been replaced.

Works in Repairing Standard Enforcement Order outstanding following re-inspection:

1. An unqualified Gas Safety Certificate has not been provided however a Gas Safe Register – Building Regulations Compliance Certificate submitted by Sean Brown Plumbing and Heating dated 1/5/17 was provided.

Photographs

1. Shower fitting
2. Central heating boiler
3. Gas safety certificate
4. Kitchen cooker



Shower Fitting



Central Heating Boiler



Domestic/Landlord Gas Safety Record

Certificate Reference

5 Cherrybank 17

Safety inspection and reporting carried out in accordance with Gas Safety (Installation and Use) Regulations and the Gas Industry Unsafe Situations Procedure. No detailed internal inspection of flues (Integrity, Construction and Lining) has been carried out.

Certificate No:

Engineers Details

Trading Title
Sean Brown Plumbing and Heating Ltd

Address
20 Sauchiebush Road
Kirkcaldy
Fife

Post Code: KY2 5RL

Installation Details

Installation Address

5 Cherry Bank
Dunfermline
Fife

Post Code: KY12 7RG

Client Details

Client Address

John Jenkins
158 Halbeath Road
Dunfermline
Fife

Post Code: KY11 4LB

Gas Safe No:

212638

Telephone No:

07739151505

Telephone No:

Telephone No:

079660424350

Appliance Details

Inspection Details

Location	Appliance Type	Make	Model	CO2 Reading	CO Reading	Fuel Type (OF/RS/FL)	Appliance Inspected (YES/NO/NA)	Combustion Analysis Reading (CO/CO2)	Landlords Appliance (YES/NO/NA)	Operating Pressure(mbar) or Heat Input(kW)	Safety Device(s) Correct Operation (YES/NO/NA)	Ventilation Provision Satisfactory (YES/NO)	Visual Condition Of Flue and Termination Satisfactory (YES/NO/NA)	Flue Performance Test (PASS/FAIL/NA)	Appliance Serviced (YES/NO/NA)	Appliance Safe To Use (YES/NO)
1 Kitchen	Combi boiler	Vaillant	EcoTec Plus 832	8.8	78	RS	YES	0.0010	YES	18 mbar	YES	YES	YES	N/A	N/A	YES
2 Kitchen	Cooker	Flavel	Milano G60	NA	NA	FL	YES	NA	YES	18 mbar	YES	YES	N/A	N/A	N/A	YES
3																
4																
5																
Faults/Notes				Remedial Work Taken				Warning Notice Fixed								
1																
2																
3																
4																
5																

Emergency Control Valve accessible:

YES

Gas Tightness Satisfactory:

YES

Signatures

Report Issued By:

Sean Brown

Signed:

Date:

Wed-19-07-2017

Gas ID Number:

4060947

Gas Installation Pipework Visual Inspection Satisfactory:

YES

Number Of Appliances Tested:

2

Equipment Bonding:

YES

Report Received By:

Not Present

Signed:

Date:

Wed-19-07-2017

NEXT INSPECTION DUE ON OR BEFORE:

Fri-27-04-2018

Installation Pass:

YES

CO Alarm fitted and working?

YES

Smoke alarm fitted and working?

YES

This Gas Safety Report was created by Gas Checker Software 2016 all rights reserved www.gaschecker.co.uk

Glasgow, 4th August 2017

This is the certificate produced and signed as accompanying the Statement of Decision of ever date, Reference FTSI HPC/RPPI7/0004

Legal Member