

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

Chamber Ref: PRHP/ EH6/52/13

Title no/Sasines Description:

ALL and WHOLE the Property at 6 (2F2) Bonnington Road, Edinburgh EH6 5JD
as more particularly described in Land Certificate Title Number MID31240

("The Property")

The Parties:-

Laura Loudon, 6 (2F2) Bonnington Road, Edinburgh (hereinafter "the Tenant")

Abdul Jabbar, 6 (2F2) (hereinafter "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** relative to the Property dated 14 August 2013 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

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.

In witness whereof these presents type are executed by John Miller McHugh, solicitor, 65 Haymarket Terrace, Edinburgh, Chairing Member of the tribunal at Edinburgh on 21 June 2018 before this witness:-

J Sillars

J McHugh

____witness _____ Chairing Member

JENNIFER SILLARS

name in full

65 HAYMARKET TERRACE

Address

EDINBURGH

EH12 5HD

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Sections 25(1) and 60

Chamber Ref: PRHP/EH6/52/13

Re: Property at 6(2F2) Bonnington Road, Edinburgh EH6 5JD (“the House”)

Application received from Laura Loudon, 6(2F2) Bonnington Road, Edinburgh EH6 5JD (“the Tenant”)

Abdul Jabbar, Stop and Shop, 173 Great Junction Street, Edinburgh EH6 5LG (“the Landlord”)

Tribunal Members

John McHugh, Chairperson
Greig Adams, Ordinary (Surveyor) Member
Helen Barclay, Ordinary (Housing) Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to vary the Repairing Standard Enforcement Order dated 14 August 2013 (“the RSEO”) issued by the Private Rented Housing Committee (“the Committee”) by deleting the requirements of paragraph 1 and, thereafter, determined that the work required by the RSEO had been completed and resolved to issue a Certificate of Completion of Work.

The decision of the Tribunal Members was unanimous.

Background

The RSEO required the Landlord to complete the following work within 21 days of service of the RSEO:

- 1 To have the gas fire in the living room repaired or replaced in order that as a result there is in the living room a fire in good working order.
- 2 To obtain a Landlords Gas Safety Certificate from a Gas Safe registered engineer confirming that the central heating system and the gas fire in the living room is in safe working order and to produce a copy of same to the Committee.

Reasons for the Decision

The Tribunal's predecessor, the Private Rented Housing Panel ("PRHP"), had made several attempts since the issue of the RSEO to re-inspect the House. This was done by contacting the Tenant. No response was received.

The PRHP contacted the Landlord by letter requesting access. The Landlord responded to the effect that access could be obtained by contacting the father of the Tenant. Access was unable to be secured in this way.

On 12 February 2014, the Committee was informed by the Tenant's representative, Martin Barnes of Edinburgh Housing Advice Partnership, that the Tenant had vacated the House and that, as at that date, the Landlord had not complied with the RSEO.

The Committee sought to gain access to the House by writing to the Landlord advising him that the House should be made available for inspection on 4 April 2014. No response was received from the Landlord.

The Surveyor Member of the Committee attended at the House on 4 April 2014 where he met and spoke to the current tenant, Toby Wishart. Mr Wishart advised that he had not been informed by the Landlord of the inspection and was unwilling to provide access at that time. Mr Wishart did, however, advise that the living room gas fire was not in working order and that, although a contractor had looked at the central heating system at the beginning of his tenancy, no Landlords Gas Safety Certificate had ever been issued to him.

On 6 May 2014, the Committee issued a Notice of Direction to the Landlord requiring him to confirm:

*"1 Whether the gas fire in the living room has been repaired or replaced and whether it is in good working order; and
2 Whether he has obtained a Landlord's Gas Safety Certificate from a Gas Safe registered engineer confirming that the central heating system and the gas fire in the living room are in safe working order and, if so, to produce a copy of same to the Committee."*

On 10 May 2014, the Landlord emailed the PRHP saying: *"new boiling system has been installed and fire place in living room is working fine."* He enclosed a Landlords Gas Safety Certificate which relates only to the central heating boiler. Nothing was produced regarding the gas fire.

On 7 July 2014, PRHP wrote to the Landlord observing that the Certificate related only to the central heating boiler and not the gas fire. It was explained that if a copy of a Landlords Gas Safety Certificate in relation to the fire was not produced within 14 days, then the Committee would be likely to make a finding that there had not been compliance with the RSEO. No response was received.

There being no evidence of compliance with the RSEO in relation to the gas fire, the Committee determined on 29 July 2014 that there had been a failure to comply with the RSEO.

On 3 January 2018, The Tribunal, having been requested by the Landlord to treat the works required by the RSEO as complete and having been provided with a copy Landlords Gas Safety Certificate which was difficult to read, made the following Direction:

"The Tribunal directs the Landlord to provide to the office of the Tribunal within 31 days a clearly legible Landlord's Gas Safety Certificate from a Gas Safe registered engineer confirming that the central heating system at the House is in safe working order".

On 20 May 2018, the Landlord provided a legible current Landlords Gas Safety Certificate dated 12 March 2018 which confirmed that the boiler is in safe working order. The covering email from the Landlord's Gas Safe registered engineer confirmed that there were no other gas appliances at the property from which we infer that the gas fire has been removed and we therefore consider it reasonable to vary the RSEO in accordance with section 25(1) of the 2006 Act by removing the requirements of paragraph 1 of the RSEO.

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 J McHugh
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John McHugh

Date21 June 2018.....

Chairperson