

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(5)**

Chamber Ref: PRHP/RP/15/0268

**Former Sasine Register Sheet No: 235717
Title No: MID41625**

**3 West Harwood Crofts, Harburn near West Calder EH55 8LT
("the Property")**

The Parties:-

**MRS JAY BONGIOVANNI, residing at 3 West Harwood Crofts, Harburn
near West Calder EH55 8LT
("the Tenant")**

**GEORGE CHONG LEE LIM and KAREN DAWN MARGARET LIM, c/o
Home Lettings Scotland, 4 Polton Road, Lasswade EH18 1AA
("the Landlords")**

AND NOW

**JOSEPH O'RAW and MORAG JOHNSTONE O'RAW, spouses,
15 Whitelees Road, Lanark
("the Heritable Proprietors and Applicants")**

Tribunal Members

**Richard Mill (Legal Member)
Mike Links (Ordinary Member)**

Decision

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 15 February 2016 has been completed satisfactorily. Accordingly, the said Repairing Standard Enforcement Order relative to the Property is herewith discharged. Reference is made to the corresponding statement of decision providing the Tribunal's reasons.

Right of Appeal

1. 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.
2. Where 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 Richard George Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the tribunal at Edinburgh on 11 October 2019 before this witness:-

R Mill

_____ Legal Member
M J Murray

_____ Witness

MARGARET JOHNSTONE MURRAY Name

69-71 Dalry Road Address

Edinburgh

EH11 2AA

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION OF THE HOUSING AND PROPERTY CHAMBER OF THE FIRST-TIER TRIBUNAL FOR SCOTLAND UNDER SECTION 60(5) OF THE HOUSING (SCOTLAND) ACT 2006

Chamber Ref: PRHP/RP/15/0268

Former Sasine Register Sheet No: 235717

Title No: MID41625

**3 West Harwood Crofts, Harburn near West Calder EH55 8LT
("the Property")**

The Parties:-

**MRS JAY BONGIOVANNI, residing at 3 West Harwood Crofts, Harburn near West Calder EH55 8LT
("the Tenant")**

**GEORGE CHONG LEE LIM and KAREN DAWN MARGARET LIM, c/o Home Lettings Scotland, 4 Polton Road, Lasswade EH18 1AA
("the Landlords")**

AND NOW

**JOSEPH O'RAW and MORAG JOHNSTONE O'RAW, spouses,
15 Whitelees Road, Lanark
("the Heritable Proprietors and Applicants")**

Tribunal Members

Richard Mill (Legal Member)

Mike Links (Ordinary Member)

Background

The former Private Rented Housing Committee determined on 15 February 2016 that the former Landlords and Heritable Proprietors (George Chong Lee Lim and Karen Dawn Margaret Lim) had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act ("the Act"). A Repairing Standard Enforcement Order ("the RSEO") dated 15 February 2016 required the Landlords:-

1. To instruct a full written report from a suitably qualified engineer on the condition of the oil fired boiler situated within the garage

of the Property. The Report must be made available to the committee. Any recommendations contained within the Report to ensure that the boiler is working safely and satisfactorily for the provision of both heating and hot water requires to be instructed and completed.

2. To instruct a full written Report from suitably qualified engineer on the condition of the whole hot water and heating system to include a full assessment of the underfloor heating system within the Property, the main control programmer situated in the kitchen and all the individual room thermostat controls. The Report must be made available to the committee. Any recommendations contained within the Report to ensure that the system is working satisfactorily for the provision of both heating and hot water requires to be instructed and completed.
3. To instruct an up-to-date Electrical Installation Condition Report (EICR). The Report must be made available to the committee. A written Report from the electrician upon the loose wiring contained around the consumer unit and the defective pendant light fitting in the utility room of the Property should be sought together with comments upon the issues identified by D Houston electrician and author of the report dated 16/11/15 instructed by the Tenant. Any recommended electrical work requires to be instructed and completed.
4. To instruct repair, adjustment or replacement of (a) the locking mechanism in the multipoint locking door exiting the Property from the utility room to ensure that the lock is capable of being used without difficulty; and (b) the sliding patio doors in the garage annex to ensure that the doors operate and can be locked securely.
5. To instruct a suitably qualified tradesman to repair or replace the defective flooring in the end bedroom of the lower ground annex of the property to eradicate any loose flooring and trip hazards.
6. To instruct a suitably qualified tradesman to survey and assess the external decorative wall around the front step area of the main entrance to the Property and to repair or replace as necessary.

The Private Rented Housing committee order that the works specified in this Order must be carried out and completed within the period of 6 weeks from the date of service of this Notice and evidenced to the committee. The committee expects item 3. above relative to the electrical system to be instructed **immediately.**"

Following a reinspection report it was identified that none of the works had been carried out. This was identified at an initial reinspection on 30 April 2016

and confirmed again at a further reinspection on 28 July 2016. A Failure to Comply Decision was issued on 28 July 2016, together with a corresponding Rent Relief Order.

The Property is no longer tenanted. The former Tenant who brought the application before the Private Rented Housing Committee previously has long since left the Property. The former Landlords and Heritable Proprietors have since sold the Property. The current Heritable Proprietors are Joseph O'Raw and Morag Johnstone O'Raw, spouses, residing at 15 Whitelees Road, Lanark. Their Title is registered in the Land Register of Scotland under Title number MID41625.

The current Heritable Proprietors, Mr and Mrs O'Raw have carried out substantial works to the Property and now intend to sell the Property again. In the circumstances, the current Heritable Proprietors sought a reinspection of the Property for the purposes of the Tribunal certifying completion of the work previously required by the Private Rented Housing Committee.

Re-inspection 2 October 2019

A re-inspection of the Property was carried out. Further documentary evidence was also produced by Mr O'Raw thereafter. Reference is made to the attached re-inspection report prepared by the Ordinary member dated 10 October 2019 which incorporates a Schedule of Photographs.

Reasons

The Tribunal determined to issue a Certificate of Completion in terms of Section 60 of the Housing (Scotland) Act 2006 to the effect of discharging the RSEO. The Tribunal had regard to the condition of the Property at the time of the re-inspection and the additional documentary evidence all as set out in the re-inspection report. No element of the RSEO remains outstanding and thus the RSEO should be discharged.

Right of Appeal

A Landlord, a Tenant or Third Party Applicant aggrieved by the decision of the Tribunal may seek permission to appeal to the Upper Tribunal 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.

Effect of Section 63

Where such an appeal is made the effect of the decision and the Order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal.

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.

R Mill

_____ Richard Mill, Legal Member

M J Murray

_____ Witness

MARGARET JOHNSTONE MURRAY Name

69-71 Dalry Road Address

Edinburgh

EH11 2AA

Housing and Property Chamber

First-tier Tribunal for Scotland



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

RE-INSPECTION REPORT



PROPERTY: 3 West Harwood Crofts, Harburn, Near West Calder EH55 8LT

HPC REF No: PRHP/RP/15/0268

SURVEYOR: Mr. M Links

JURISDICTION: The Private Rented Housing Panel (PRHP) was transferred to the First-tier Tribunal for Scotland (Housing and Property Chamber) in December 2016.

IN ATTENDANCE: Mr O'Raw (Homeowner)

Mr O'Raw purchased the property from the landlord on 1st August 2016.

It is understood that the tenant Mrs Jay Bongiovanni vacated the property circa July 2016

WEATHER: Dry and sunny.

ACCESS: I re-inspected the property on Wednesday 2nd October 2019 at 11am.

RSEO:

The following works are required by the RSEO following on from the Inspection and Hearing on 12th February 2016.

1. To instruct a full written report from a suitably qualified engineer on the condition of the oil fired boiler situated within the garage of the Property. The Report must be made available to the committee. Any recommendations contained within the Report to ensure that the boiler is working safely and satisfactorily for the provision of both heating and hot water requires to be instructed and completed.
2. To instruct a full written Report from a suitably qualified engineer on the condition of the whole hot water and heating system to include a full assessment of the underfloor heating system within the Property, the main control programmer situated in the kitchen and all the individual room thermostat controls. The Report must be made available to the committee. Any recommendations contained within the Report to ensure that the system is working satisfactorily for the provision of both heating and hot water requires to be instructed and completed.
3. To instruct an up-to-date Electrical Installation Condition Report (EICR). The Report must be made available to the committee. A written Report from the electrician upon the loose wiring contained around the consumer unit and the defective pendant light fitting in the utility room of the Property should be sought together with comments upon the issues identified by D Houston electrician and author of the report dated 16/11/15 instructed by the Tenant. Any recommended electrical work requires to be instructed and completed.

4. To instruct repair, adjustment or replacement of (a) the locking mechanism in the multipoint locking door exiting the Property from the utility room to ensure that the lock is capable of being used without difficulty; and (b) the sliding patio doors in the garage annex to ensure that the doors operate and can be locked securely.
5. To instruct a suitably qualified tradesman to repair or replace the defective flooring in the end bedroom of the lower ground annex of the property to eradicate any loose flooring and trip hazards.
6. To instruct a suitably qualified tradesman to survey and assess the external decorative wall around the front step area of the main entrance to the Property and to repair or replace as necessary.

This report should be read in conjunction with the Statement of Decision and RSEO dated 15th February 2016, the Re-inspection report following on from the inspection of 13th April 2016, the Rent Relief Order and Failure to Comply statement.

WORKS IN RSEO UNDERTAKEN:

Items 1 and 2. The Tribunal has received a report from Jim Fegan, Plumbers and Heating Engineers.

The underfloor heating and domestic hot water appears to be functioning satisfactorily. Most rooms have individual control units.



Room Control



Manifold



Boiler

Item 3. An EICR has been exhibited to the Tribunal.

Item 4. The locks have been repaired and are operating satisfactorily.

Item 5. The floor has been repaired and is now carpeted.



Item 6. The defective ornamental wall at the main entrance to the house has been removed.



WORKS IN RSEO OUTSTANDING:

None

RECOMMENDATION:

Once the re-inspection report is forwarded to the Homeowner for comment the Tribunal will then decide what further action is required.

Mr. M Links

Ordinary Member (Surveyor)

Housing and Property Chamber

Date: 10th October 2019