

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision under sections 27(4) and 60 of the Housing (Scotland) Act 2006

Chamber Ref: PRHP/RP/16/0210

Subjects at 1/L, 44 McLean Street, Dundee, DD3 9QG (“the House”)

The Parties:-

Mr Martyn Alan Keiller, residing at 4 Pitempton Farm, Pitempton Road, Strathmartine, Dundee, DD3 0PF (“the Landlord”)

The Tribunal:-

Mrs Ruth O’Hare (Legal Member)

Ms Geraldine Wooley (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) unanimously determined that the works required by the Repairing Standard Enforcement Order (“RSEO”) had been completed and resolved to issue a Certificate of Completion of Work.

Background

1. Reference is made to the decision of the Private Rented Housing Committee (“the Committee”) dated 27 October 2016 which determined that Andrew Kennedy (“the Former Landlord”) had failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006. The Committee accordingly made a Repairing Standard Enforcement Order requiring the Former Landlord to carry out the following works:-
 - a. Upgrade the system for detecting fires in the property to ensure that it meets current regulations and that the property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

The RSEO gave the Former Landlord six weeks to carry out the works.

2. On 13 December 2016 the Tribunal received a letter from the Former Landlord advising that the works had been completed and producing a minor electrical

installation works certificate. However the certificate contained an error in the address and did not address the Tribunal's concerns regarding the interlinking of the smoke alarms.

3. On 19 December 2016 the Tribunal received a further letter from the Former Landlord advising that he had sold the property to a new owner. The Tribunal obtained copies of the revised title deed which confirmed that the Landlord had purchased the property and his title had been registered on 24 January 2017. The Tribunal was subsequently advised by Dundee City Council that the property had been let to a new tenant in contravention of the terms of the RSEO.
4. On 11 July 2018 the Ordinary Member carried out a re-inspection of the property. Sheila Keiller allowed access on behalf of the sitting tenant. Mr Lyndsey Watson from Dundee City Council was also present. The Ordinary Member noted that interlinking smoke alarms had been installed which conformed to current guidance. The system was tested and found to be in proper working order. A copy of the re-inspection report is attached.
5. Having regard to the findings of the re-inspection the Tribunal determined it had sufficient information to make a determination without the requirement for a further hearing and there would be no prejudice to the Landlord in proceeding without seeking further written representations from him on the terms of the re-inspection report.

Reasons for the decision

6. The Tribunal was satisfied having regard to the findings of the re-inspection that the work required by the RSEO had been completed, there being interlinked smoke alarms which conform to current guidance. Accordingly the Tribunal determined that a certificate of completion should be issued.
7. Whilst the RSEO has now been satisfied the Tribunal has serious concerns about the property having been re-let by the Landlord with the RSEO in place. The Tribunal would remind the Landlord that the letting of any property that is subject to an RSEO is a criminal offence that could lead to prosecution and he should ensure that his actions in this regard are not repeated in respect of any future RSEO.
8. The decision of the Tribunal was unanimous.

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.

R O'Hare

Signed

Ruth O'Hare, Chairperson

25 July 2018

Housing and Property Chamber First-tier Tribunal for Scotland



Re-inspection report

Property: 1/L 44 McLean Street, Dundee, DD39QG
Ref no: prhp/rp/16/0210
Surveyor : Geraldine Wooley MRICS
Access: 11/07/18 at 10am
Weather – overcast and dry
Attendees: Shona Keiller (representing Martyn Alan Keiller)
Lyndsay Watson – Dundee Council



Background comments: the original tenant vacated the property prior to the first inspection and hearing, and the property changed hands in December 2016. Martyn Alan Keiller is the new owner. Although the previous owner supplied the Tribunal with a copy of a Minor Electrical Installation Certificate date 29/11/16, indicating that works in the RSEO had been carried out, this certificate could not be relied on because the property concerned appeared to be the “top left” flat, and there was no indication that the new installation had been connected to the old alarm system, as required by paragraph 7 of the guidance under the Housing (Scotland) Act 2006. The Tribunal therefore decided that an inspection of the property would be necessary before a Certificate of Completion could be granted. However, the Tribunal has been unable to gain access to the property until this inspection.

RSEO: works required

- (a) Upgrade the system for detecting fires in the property to ensure that it meets current regulations and that the property has satisfactory provision for giving warning in the event of fire or suspected fire

Works in RSEO undertaken:

As reported in the Minor Electrical Installation Certificate date 29/11/16 (see appendix 1), a new smoke alarm has been installed in the sitting room (photo 1) and a new heat alarm in the kitchen (photo 2). The original smoke alarm remains in the hallway (photos 3a & b).

To meet the regulations, alarms should be interconnected. This was tested in the presence of the landlord's representative, and confirmed that both of the newly installed alarms link to the old alarm in the hallway, so meet the standard required by paragraph 7 of the guidance under the Housing (Scotland) Act 2006.

APPENDIX 1 Minor Electrical Installation Certificate



This certificate is not valid if the serial number has been deleted or altered

IMN3/ 0725507

MINOR ELECTRICAL INSTALLATION WORKS CERTIFICATE

Issued in accordance with British Standard BS 7671 - Requirements for Electrical Installations by an Approved Contractor or Competing Body enrolled with NICEIC, Warwick House, Houghton Hall Park, Houghton Regis, Dunstable LU5 5JX

To be used only for minor electrical work which does not include the provision of a new circuit

PART 1: DETAILS OF THE MINOR WORKS

Details of repair/alteration, from BS 7671 (as amended): None

Client: Mrs Kennedy

Date minor works completed: 29/11/2016 Competing body: N/A

Description of the minor works: Installed optical detector in Lounge
Installed heat detector in kitchen
& tested BS reading

Location/address of the minor works: Home, Lounge, Kitchen
44 MILLERS ST (top left)
DUNDEE

Appears to refer to "top left" rather than 1st floor left

PART 2: DETAILS OF THE MODIFIED CIRCUIT

System type and earthing arrangements: TN-C-S TN-S MIA TT MIA TN-C MIA IT MIA

Protective measure against electric shock: A-D-S

Equipment protective device for the modified circuit: BS EN 60898 6300A Type B Terminals 6 A

Residual current device (if applicable): BS EN 61851 6300A Type B In 30 mA

Details of wiring system used to modify the circuit: Type PVC/PVC Reference method B Use of live (i.e. not covered) by not

Where the measure for protection against electric shock is ADS, does maximum disconnection time permitted by BS 7671: 0.4 s Maximum length permitted by BS 7671: 0.57 m

Comments, if any, on existing installation, including adequacy of earthing and bonding arrangements (see Regulation 132.16): N/A

PART 3: INSPECTION AND TESTING OF THE MODIFIED CIRCUIT AND RELATED PARTS

1. Confirm that the necessary inspections have been undertaken	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	2. Confirmation of the adequacy of earthing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Circuit resistance (R _s + R _e) @ 500 Ω or R _s @ 1 Ω	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	4. Confirmation of the adequacy of protective bonding	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
5. Insulation resistance (I) in a multi-phase circuit, across the lines or between lines, as appropriate	Line/Line* <u>∞</u> MΩ	Line/Earth* <u>1000</u> MΩ	6. Confirmation of correct polarity	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
7. Line/Earth* <u>1000</u> MΩ	Earth/Earth* <u>1000</u> MΩ	8. Measure an unswitched earth fault loop impedance (Z _e)	<u>0.57</u> Ω		
		9. RCD operating time at I _n of RCD (rated)	<u>26</u> ms		
		10. RCD operating time at 5I _n if applicable	<u>6</u> ms		

Agreed limitations, if any, on the inspection and testing: Only the 5mA RCD test was tested

PART 4: DECLARATION

I/We certify that the minor electrical installation works, as detailed in Part 1 of this certificate, does not impair the safety of the existing installation, that the said works have been designed, constructed, inspected, tested and certified in accordance with BS 7671, (as amended) and that, to the best of my/our knowledge and belief, at the time of my/our signature, the works comply with BS 7671, except as detailed in Part 1 of this certificate.

Date: 2016/11/29

Name: <u>NATHAN FORBES</u>	Name: <u>TOMMY GUILD</u>	For and on behalf of (please list the approved contractor): <u>G.A. Holmes Ltd</u>
Signature: <u>[Signature]</u>	Signature: <u>[Signature]</u>	Address and Postcode: <u>2 Langmuir St DUNDEE DD4 6JZ</u>
Position: <u>Electrician</u>	Position: <u>Approved Electrician</u>	
Date: <u>29/11/2016</u>	Date: <u>29/11/2016</u>	

Employer's Name: 4706 Branch number (if applicable): 000

Appendix 2 – photo report

1/L McLean Street, Dundee DD3 9QG

11/07/18

Photo 1: new smoke detector
installed in living room



Photo 2: new heat detector installed in kitchen





Photo 3a: smoke alarm in hall as at 12/08/16



Photo 3b: as at 11/07/18 - the same device is installed, but is now connected to the new alarms in the sitting room and kitchen

Housing and Property Chamber First-tier Tribunal for Scotland



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

CERTIFICATE OF COMPLETION under section 60 of the Housing (Scotland)
Act 2006

Chamber Ref: PRHP/RP/16/0210

Subjects at 1/L, 44 McLean Street, Dundee, DD3 9QG (“the House”)

The Parties:-

Mr Martyn Alan Keiller, residing at 4 Pitempton Farm, Pitempton Road,
Strathmartine, Dundee, DD3 0PF (“the Landlord”)

The Tribunal:-

Mrs Ruth O’Hare (Legal Member)

Mrs Geraldine Wooley (Ordinary Member)

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 house dated 27 October 2016 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 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 are executed by Ruth O’Hare, Legal Member of the Tribunal at Aberdeen on 25 July 2018 before this witness:-

R Banfro

Witness

Legal Member

Rhoda Banfro c/o Aberdeenshire Council,
Woodhill House, Westburn Road, Aberdeen