

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 Reference FTS/HPC/RP/17/0256

Title: Subjects being the southmost dwellinghouse on the first floor above the ground floor of the tenement of shops and dwellinghouses forming numbers Seventy Three to Seventy Seven High Street, Lochee in the City of Dundee and County of Angus as more particularly described in Disposition by James Myers Cunningham and Sarah Cunningham to James McCash and Sarah Jane McCash dated 15 December 1988 and Registered in the General Register of Sasine on 28 December 1988 under Title Sheet AN5701 ("The House")

The Parties:-

Iain MacDonald, formerly residing at 1/L, 75 High Street, Lochee, Dundee, DD2 3AT ("The Tenant")

Mr James McCash, c/o Remax Lettings, Flemington Road, Glenrothes, Fife, KY7 5QF, as Executor Dative of the late Sarah McCash conform to Decree dated 1 February 2010 from Dundee Sheriff Court and Confirmation dated 18 March 2010 appended hereto, the late Sarah McCash being the survivor of her spouse James McCash ("the Landlord")

The Tribunal comprised of:-

Mrs Ruth O'Hare - Legal Member
Mr David Godfrey - 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 17 April 2018 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 Stonehaven on 28 February 2019 before this witness:-

R O'Hare

A Overton

Witness

Legal Member

Ann Overton, c/o Aberdeenshire Council
Woodhill House, Westburn Road, Aberdeen

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Statement of Decision under section 60(4) of the Housing (Scotland) Act 2006
("the 2006 Act")**

Chamber Reference FTS/HPC/RP/17/0256

**Title: Subjects at 1/L, 75 High Street, Lochee, Dundee, DD2 3AT under Title
Sheet AN5701 ("The House")**

The Parties:-

**Iain MacDonald, formerly residing at 1/L, 75 High Street, Lochee, Dundee, DD2
3AT ("The Tenant")**

**Mr James McCash, c/o Remax Lettings, Flemington Road, Glenrothes, Fife, KY7
5QF, as Executor Dative of the late Sarah McCash conform to Decree dated 1
February 2010 from Dundee Sheriff Court and Confirmation dated 18 March
2010, the late Sarah McCash being the survivor of her spouse James McCash
("the former Landlord")**

**Blue Spark Dundee Limited, having a registered office at Digital IT Centre, 10
Douglas Street, Dundee, DD1 5AJ ("the Landlord")**

The Tribunal comprised:-

Mrs Ruth O'Hare	-	Legal Member
Mr David Godfrey	-	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 determination of the Private Rented Housing Committee ("the Committee") dated 17 April 2018 which concluded that the former Landlord had failed to comply with the duty imposed by section 14(1)(b)

of the Act in that he had failed to ensure that the property met the Repairing Standard. On the same date the Tribunal issued an RSEO in respect of the property. The works required by the RSEO were:-

- (a) Repair the kitchen cupboard under the sink;
- (b) Repair the w.c. cistern in the bathroom to ensure it is in proper working order;
- (c) Repair the light switch in the bedroom and thereafter instruct an electrical installation condition report;
- (d) Replace or repair the front windows to ensure they are wind, watertight and in proper working order;
- (e) Carry out such repairs as are necessary to the outbuildings to the rear of the property, in particular to repair the broken window and replace the door;
- (f) Carry out such works as are necessary to clear the rhones to both the front and rear of debris and repair any leaks.

The RSEO gave the former Landlord three months to carry out the works.

2. On 29 May 2018 the Tribunal was contacted by Derek McCash on behalf of the former Landlord. Mr McCash advised that the property had been sold on 9th May 2018. The Tribunal administration confirmed through Registers Scotland that ownership had transferred to the Landlord. The Tribunal subsequently wrote to the Landlord to intimate the terms of the RSEO.
3. A re-inspection took place on 29 November 2018. The Ordinary Member attended the property. Mr Cruickshank was present on behalf of the Landlord and provided access. It was noted that the property was being modernised and renovated internally. Whilst the windows had been repaired, the remainder of the works required by the RSEO remained outstanding. A copy of the re-inspection report is attached herewith.
4. Following receipt of the re-inspection report the Landlord emailed the Tribunal to advise that the works would be completed by 16 January 2019. He requested a further inspection be arranged following that date. The Tribunal accepted that the Landlord intended to complete the works on the basis of the verbal and written representations and the findings of the re-inspection. The Tribunal therefore determined to arrange a further re-inspection at which point it could ascertain whether the works required by the RSEO had been completed.
5. A further re-inspection took place on 7th February 2019. The Ordinary Member attended the property. Mr Cruickshank was present and gave access on behalf of the Landlord. The re-inspection concluded that the majority of the works required by the RSEO had been completed. The only matter outstanding was the absence of an Electrical Installation Condition Report (or equivalent). A copy of the re-inspection report is attached herewith.

6. By email on 7th February 2019 the Landlord provided a copy of an Electrical Installation Certificate which is attached herewith. The Tribunal was therefore satisfied that the terms of the RSEO had been complied with.

Reasons for the decision

7. The Tribunal determined the application having regard to the findings of the re-inspection and the representations from the Landlord. The Tribunal considered it had sufficient information on which to make a decision.
8. The Tribunal was satisfied on the basis of the re-inspection and the subsequent written representations from the Landlord that the works required by the RSEO had all been completed. Accordingly the Tribunal determined that a certificate of completion should be issued.
9. 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

28 February 2019

Housing and Property Chamber

First-tier Tribunal for Scotland



REINSPECTION REPORT



Property: FLAT 1/L, 75 HIGH STREET, LOCHEE, DUNDEE, DD2 3AT

Ref no: FTS/HPC/RP/17/025

Tribunal: David Godfrey

Inspection: The property was inspected at 10.00 am Thursday 29th November 2018.

Access: The original Landlord James McCash, no longer owns the property. Mr Cruickshank of Blue Spark Dundee Ltd (the new owners) was present and provided access.

Repairing Standard Enforcement Order:

In particular the Tribunal requires the Landlord to:-

- (a) Repair the kitchen cupboard under the sink;*
- (b) Repair the w.c. cistern in the bathroom to ensure it is in proper working order;*
- (c) Repair the light switch in the bedroom and thereafter instruct an electrical installation condition report;*

- (d) Replace or repair the front windows to ensure they are wind, watertight and in proper working order;*
- (e) Carry out such repairs as are necessary to the outbuildings to the rear of the property, in particular to repair the broken window and replace the door;*
- (f) Carry out such works as are necessary to clear the rhones to both the front and rear of debris and repair any leaks.*

The Tribunal order that the works specified in this Order must be carried out and completed within the period of three months from the date of service of this Notice.

General Remarks:

1. The property is presently being modernised and renovated internally.

Works in Repairing Standard Enforcement Order completed since last inspection:

1. The front windows have been overhauled with the seals repaired and the operating mechanisms and handles replaced.

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

1. The Kitchen is in the process of being relocated and refitted however the work is incomplete.
2. The bathroom fittings are presently being replaced however the work is incomplete.
3. The property is presently being rewired however the work is incomplete.
4. The outbuildings to the rear of the property are still in poor condition.
5. The front rhones are still choked and leaking.
6. The rear rhones are still choked and leaking.

Photographs

1. Kitchen presently being relocated and refitted
2. Bathroom
3. Front window (1)
4. Front window (2)
5. Outbuildings (1)
6. Outbuildings (2)
7. Front rhones
8. Rear rhones



Kitchen presently being relocated and refitted



Bathroom



Front window (1)



Front window (2)



Outbuildings (1)



Outbuildings (2)



Front rhones



Rear rhones

David Godfrey

29th November 2018



REINSPECTION REPORT



Property: FLAT 1/L, 75 HIGH STREET, LOCHEE, DUNDEE, DD2 3AT

Ref no: FTS/HPC/RP/17/0256

Tribunal: David Godfrey

Inspection: The property was inspected at 10.00 am Thursday 7th February 2019.

Access: The original Landlord James McCash, no longer owns the property. Mr Cruickshank of Blue Spark Dundee Ltd (the new owners) was present and provided access.

Repairing Standard Enforcement Order:

In particular the Tribunal requires the Landlord to:-

- (a) Repair the kitchen cupboard under the sink;*
- (b) Repair the w.c. cistern in the bathroom to ensure it is in proper working order;*
- (c) Repair the light switch in the bedroom and thereafter instruct an electrical installation condition report.*

(d) Replace or repair the front windows to ensure they are wind, watertight and in proper working order;

(e) Carry out such repairs as are necessary to the outbuildings to the rear of the property, in particular to repair the broken window and replace the door;

(f) Carry out such works as are necessary to clear the rhones to both the front and rear of debris and repair any leaks.

The Tribunal order that the works specified in this Order must be carried out and completed within the period of three months from the date of service of this Notice.

General Remarks:

1. The property has recently been modernised and renovated internally.

Works in Repairing Standard Enforcement Order now completed:

1. The front windows have been overhauled with the seals repaired and the operating mechanisms and handles replaced.

2. The Kitchen has been relocated and refitted.

3. The bathroom fittings have been replaced.

4. The property has been rewired.

5. The outbuildings to the rear of the property have been repaired.

6. The front rhones have been cleared and repaired.

7. The rear rhones have been cleared and repaired.

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

1. An Electrical Installation Condition Report (or equivalent) has yet to be provided.

Photographs

1. Front window (1)
2. Front window (2)
3. Kitchen fittings
4. Bathroom fittings
5. Outbuildings
6. Front rhones (1)
7. Front rhones (2)
8. Rear rhones (1)
9. Rear rhones (2)



1. Front window (1)



2. Front window (2)



3. Kitchen fittings



4. Bathroom fittings



5. Outbuildings



6. Front rhones (1)



7. Front rhones (2)



8. Rear rhones (1)



9. Rear rhones (2)

David Godfrey

7th February 2019