

# Housing and Property Chamber First-tier Tribunal for Scotland

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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 60**

**Chamber Ref: PRHP/ RP/15/0104**

**Property at 64 Columba Crescent, Forgewood, Motherwell ML1 3YE (“the Property”)**

**The Parties:-**

**Douglas McCallum, 64 Columba Crescent, Forgewood, Motherwell ML1 3YE  
(hereinafter referred to as “the Tenant”)**

**Shabir Latif, 12 Woodvale Road, Radcliffe, Manchester M26 1UA (hereinafter  
referred to as “the Landlord”)**

## **Tribunal Members**

John McHugh, Chairperson

Mike Links, Ordinary (Surveyor) Member

## **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), having carried out a further inspection of the House determined that the work required by the Repairing Standard Enforcement Order dated 5 December 2013 (“the RSEO”) had not been completed.**

The decision was unanimous.

## **Background**

The RSEO dated 15 July 2015 made by the Tribunal's predecessor, a Committee of the Private Rented Housing Panel, required the Landlord to complete the following work within 28 days of service of the RSEO:

- 1 To have the central heating system put into operating condition to include ensuring that none of the radiators leak and that the boiler produces hot water as intended and to have a new Landlords Gas Safety Certificate issued by a Gas Safe registered engineer.
- 2 To repair or replace the windows such that all windows are capable of being opened and closed as designed, are reasonably draught proof and that all locking and handle mechanisms operate as intended.
- 3 To remove all mould present on the walls, ceiling and on the windows of the House and to redecorate any affected areas.
- 4 To install fire detection devices in compliance with the terms of the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires.

The Committee, on the application of the Landlord, extended the 28 day period by a further 21 days in terms of its decision of 17 September 2015.

## **Reasons for the Decision**

On 28 October 2015, the Surveyor Member of the Committee carried out a second re-inspection of the House, the first re-inspection having taken place on 31 August 2015.

At the second re-inspection the following was noted:

A partial repair had been made to the central heating system. Substantial defects remain unaddressed. No safety certificate has been produced.

On 27 August 2018, the Surveyor Member carried out a further re-inspection. As regards Item 1 of the RSEO, a Landlord's Gas Safety Certificate was provided.

A new gas fired central heating boiler has been installed in the last few weeks. However, the front bedroom radiator is leaking and has been cut-off.

The remaining radiators are functioning. No hot water was available due to the meter running out of credit. However, the tenant confirms that hot water is available on demand.

As regards Item 2 in the RSEO: The kitchen window has been renewed. All the other window frames in the flat remain and are in a similar condition as previously reported.

As regards Item 3 in the RSEO: There remains mould in the bathroom adjacent to the window.

As regards Item 4 of the RSEO: Smoke detectors have been installed within the Living Room and Hallway. In addition, a heat detector has been installed within the kitchen.

These are hard wired and inter-connected.

During the inspection the Tenant re-connected the heat detector. As a precaution, the tenant had previously disconnected the detector due to water ingress from the flat above.

There was limited success when tested though the tenant advises that the detectors are functioning properly.

Accordingly, all works required by the RSEO have not been completed.

The Landlord has made allegations (denied by the Tenant) in his email of 6 September 2018, in response to the report of the inspection carried out by the Surveyor Member, that works could not be completed because of access problems created by the Tenant. The Tribunal observes that the Landlord has the right to make an application to the Tribunal to assist in providing access but does not appear to have done so.

The Landlord's comments re access are however of limited relevance since he asserts in the same email that "Everything is in order and everything works". The Landlord cites as evidence of this communications which he has had with the Environmental Health Department of the local authority, which he appears to regard as connected in some way to the Tribunal.

The local authority is a separate organisation and whatever opinion may have been expressed by representatives of the local authority, such opinion is not determinative as to whether the works required by the RSEO have been completed. That is a question to be determined by the Tribunal alone. In any event, the communications provided by the Landlord which originate from the local authority evidence the completion of some works but do not purport to determine the question of whether the RSEO has been complied with.

**Right of Appeal**

**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.**

**Effect of section 63**

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and 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.

J McHugh

Signed ..... Chairperson

Date .....24 September 2018.....