

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision under section 26(1) of the Housing (Scotland) Act 2006 as amended ("the Act")

Reference number: FTS/HPC/RP/17/0167

Re: Property at 144 Osborne Place, Aberdeen AB25 2UD ("the Property")

The Parties:

- **Mr Luis De Basto, 144 Osborne Place, Aberdeen AB25 2UD ("the Tenant")**
- **Ms Claire Dewick or Magnus, Gilston House, Elgin IV30 or 24 Gairn Terrace, Aberdeen AB10 6BB ("the Landlord")**
- **Mr Duncan Kerr, AM PM Leasing Property, 441 Union Street, Aberdeen AB11 6DA ("the Landlord's Agent")**

Tribunal Members:

**Gabrielle Miller
Angus Anderson**

**Legal Member and Chairperson
Ordinary Member (Surveyor)**

1. **The First Tier Tribunal for Scotland (Housing & Property Chamber) ("the Tribunal"), having made such enquiries as was appropriate for determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property concerned and taking account of the subsequent re-inspection of the Property, determined that the Landlord had now complied with the terms of the RSEO and resolved to issue a Certificate of Completion in respect of the works required by the RSEO**

Statement of Reasons

2. **Reference is made to the Determination of the Tribunal dated 26th September 2017 which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act and to the RSEO made by the Tribunal which required the Landlord to carry out works to ensure that the house meets the repairing standard.**

3. The Tribunal required the Landlord to carry out such work as is necessary for the purpose of ensuring that the Property concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of the Order is made good.

4. In particular, the Tribunal required the Landlord: -

a. To provide a Gas Safety Certificate for the Property from a Gas Safe Registered Engineer addressing the working order, condition and safety of the gas installation and the Boiler and issued within the last six months and should also address whether there is a carbon monoxide alarm which complies with the statutory guidance in the house.

b. To provide an Electrical Installation Condition Report (EICR) showing the electrical installation reaches a satisfactory standard with no C1 or C2 items reported and to be dated after the date of the inspection by the Tribunal, which report should be carried out by a suitably qualified and registered SELECT or NICEIC electrical contractor.

c. To carry out such works as are necessary to the roof and rainwater goods of the Property to prevent water ingress along the front elevation.

d. To repair or replace the shower enclosure and tray within the en-suite shower room such that they do not leak and are otherwise in a reasonable state of repair.

e. To make good the ceiling linings and decoration of the kitchen ceiling

f. To investigate and repair the light switch or light fitting in the master bedroom such that the light is in proper working order.

5. The said works were to be carried out and completed within a period of 28 days from the date of the service of the Order.

6. Around 1 November 2017, the Landlord submitted:-

a. A copy of a Gas Safety Certificate for the house dated 20th October 2017, prepared by Rintoul Plumbing and Heating Engineers, Gas Safe Registration No 570699 which states the gas installation passes a visual inspection and that the three gas appliances are safe to use.

b. A copy of an invoice from Rintoul Plumbing and Heating Engineers, dated 28/10/17. The invoice details repairs to the en-suite shower.

- c. A copy of an invoice from AJ Morrison, Culter Slaters, dated 14th March 2017. The invoice detailed repairs around the bay window.
 - d. An invoice from Will Farquhar Electrical Services, which detailed repairs to a light switch.
7. Around 14th November 2017 the Landlord's Agent submitted a copy of an EICR dated 7th November 2017, prepared by Will Farquhar Electrical Services Ltd, SELECT member which summarises the installation as "Satisfactory" with no C1 or C2 conditions.
8. On 29th November 2017, the Ordinary Member (Surveyor) of the Tribunal carried out an inspection of the Property and noted
- a. that the consumer unit had a sticker indicating that it was inspected in November 2017. The principal EICR was inspected at the re-inspection;
 - b. that there was a carbon monoxide detector in the Lounge and Kitchen, the rooms containing carbon burning appliances;
 - c. neither the visual inspection nor moisture meter testing revealed any water ingress along the internal front elevation, although the marks to the decorations and plaster that were present at the previous inspection were still present;
 - d. from the master bedroom Velux window, it could be seen that debris was beginning to build up on the flat roof over the bay window;
 - e. that the silicon had been replaced in the master bedroom en-suite and the existing (cracked or crazed) shower tray remained. Moisture meter testing revealed slightly lower moisture content at the flooring at the side of the shower. The shower was turned on for around five minutes. In the kitchen, there was no water leakage nor sound of dripping water onto the ceiling;
 - f. the ceiling linings and decoration of the kitchen ceiling remain as before, with three small holes present;
 - g. that the programmable light switch in the master bedroom had been replaced with a simple light switch, which functioned properly when tested and
 - h. in addition to the works required by the RSEO, smoke alarms have been fitted to the ceiling of the ground floor entrance and lounge.

9. The Ordinary Member's inspection report with his findings was circulated to the parties and written submissions were invited. The Tenant had moved out of the property by the second inspection report and did not make a submission. The Landlord returned a submission, dated 19th December 2017, ticking that she was in agreement with the re-inspection report. She also stated that the reason that the work had not been completed in the kitchen was that she was awaiting an insurance claim for the decorating of the ceiling and floor and for the redecorating of the lounge window and small bedroom/playroom. It was also noted in this submission that on 4th April 2017 her insurance agent was refused access by the tenant to inspect the property for redecorating and to assess the damage.

Decision

10. The Tribunal considers the works specified in the RSEO have been substantially completed and have decided that it is appropriate to issue a Certificate of Completion in terms of Section 60 of the Act. The Tribunal members were unanimous in their decision.

Rights of Appeal

11. **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.**
12. **In terms of Section 63 of the Act, 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.**

G Miller

Chairing Legal Member of the Tribunal
Dated 9th March 2018