

# **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: FTS/HPC/RP/17/0117**

**Title no: MID95377**

**57F MacBeth Moir Road, Musselburgh EH21 8DQ  
("the Property")**

**The Parties:-**

**Ms Anna Kulig, residing at 57F MacBeth Moir Road, Musselburgh  
EH21 8DQ  
("the Tenant")**

**Mr Gary Patrick O'Donnell, residing at 39c Caiystane Gardens,  
Edinburgh EH10 6TB  
("the Landlord")**

**The Tribunal**

**Richard Mill (Legal Member)  
Susan Napier (Ordinary Member)**

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Landlord has complied with the Repairing Standard Enforcement Order in respect of the Property made on 13 June 2017 and that a Certificate of Completion should be issued in terms of Section 60(5) of the Housing (Scotland) Act 2006.

**Background**

1. Following an inspection of the Property on 5 June 2017, the Tribunal issued a Repairing Standard Enforcement Order dated 13 June 2017 in respect of the Property in the following terms:-

- “1. To instruct a roofing contractor to inspect and survey the roof, ridges, chimney and gutterings above the Property and to produce a written report; and, if necessary, to carry out works recommended including any renewals or repairs so as to ensure that there is no water ingress into the Property.
2. To instruct a suitably qualified tradesman to carry out a repair to the front door of the Property so as to ensure that the door can be secured and locked with the use of the main door lock, in addition to the Yale lock provided, by ensuring that the metal doorkeeper affixed to the doorframe is fitted and secured correctly.
3. To instruct a qualified electrician to provide an Electrical Installation Condition Report (EICR) on the condition of the electrics within the Property providing specific commentary upon the installation and safety of the electrical shower within the bathroom and the halogen lights within the front bedroom to the Property; and any work required should be undertaken to ensure that there are no C1 or C2 recommendations.
4. To instruct a suitably qualified tradesman to survey the windows in the Property and to overhaul and repair same; specifically undertaking the following:-
  - i. To ensure that the new window unit installed in the living room of the Property in June 2016 is adjusted or sealed to ensure that there are no draughts around the frame.
  - ii. To repair or replace the double glazed units in the front bedroom of the Property to ensure that they are both wind and waterproof, and to ensure that the windows can be securely locked.
  - iii. To ensure that the glass pane in the bathroom window is suitably sealed along the bottom within the frame.
5. To instruct a suitably qualified tradesman to repair or replace the plug in the bathroom sink so as to ensure that the basin can be filled with water and thereafter drained.
6. To instruct a suitably qualified tradesman to repair or replace the under the counter freezer within the kitchen of the Property.
7. To instruct a tradesman to provide a watertight seal to the white cable which enters the corner of the living room at floor level from the balcony.

The Tribunal orders 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 Tribunal."

2. A re-inspection of the Property was conducted by the Ordinary Member on 18 August 2017. It was found that none of the items of work required in terms of the Repairing Standard Enforcement Order had been undertaken by or on behalf of the Landlord. In the circumstances the Tribunal found that the Landlord had failed to comply with the Repairing Standard Enforcement Order. This failure was notified to the Local Authority. A Rent Relief Order reducing the rent payable under the tenancy to the extent of 30% was made.
3. Subsequent correspondence was received on behalf of the Landlord submitting that the relevant work required in terms of the Repairing Standard Enforcement Order had been completed. The relevant vouching was produced. Thereafter confirmation from the Tenant was received that the works had been undertaken.
4. A further re-inspection of the Property was undertaken by the Ordinary Member on 8 December 2017. The re-inspection report arising therefrom was subsequently intimated to parties. The re-inspection report found that the Tribunal was satisfied that all material relevant works required had been undertaken. One minor matter was noted at the time of the re-inspection. Whilst the doorkeeper had been remedied it was perhaps not the best of repairs. However, the Tenant confirmed that she was happy with the situation and the Tribunal concluded that it would not be proportionate to insist upon further works being undertaken and that it would not be equitable for the Repairing Standard Enforcement Order to remain in place.
5. The Landlord provided no further comments in relation to the re-inspection report from 8 December 2017. The Tenant replied by way of Notice signed and dated on 23 December 2017 advising that all items had been undertaken. She did not request any further hearing.
6. The Tribunal accordingly determined that the Landlord had complied with the Repairing Standard Enforcement Order made on 13 June 2017 and that a Certificate of Completion should in these circumstances be issued. The Rent Relief Order previously made is also revoked.

### **Right of Appeal**

7. 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.

8. 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 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 26 January 2018 before this witness:-

**R Mill**

\_\_\_\_\_ Legal Member

\_\_\_\_\_ Witness

MARGARET JOHNSTONE MURRAY Name

69-71 DALRY ROAD Address

EDINBURGH

EH11 2AA