

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Certification that the work required by a Repairing Standard Enforcement Order has been completed: Housing (Scotland) Act 2006, Section 60

Chamber Ref: FTS/HPC/RT/19/0463

Flat 2/2, 130 Ferguslie, Paisley, PA1 2XP (Title Number REN 19980)

(“the property”)

The Parties:-

Renfrewshire Council, Community Housing and Planning Services, Renfrewshire House, Cotton Street, Paisley PA1 1JD

(“the third party applicant”)

Neda Ghaffar, Luachair Cottage, East Tarbert, Isle of Harris, HS3 3DB

(“the original landlord”)

Tribunal Members:

Adrian Stalker (Chairman) and Donald Wooley (Ordinary Member)

The First-tier tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having so determined on 19 March 2021, hereby grants certification that the work required by the **Repairing Standard Enforcement Order** of 14 May 2019 relative to the property has been completed, with effect from the date of service of this Certificate, and the relative decision. Accordingly, the said RSEO 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.

A Stalker

Signed

Date 19 March 2021

(Tribunal Chair)

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision to Certify that the work required by a Repairing Standard Enforcement Order has been completed: Housing (Scotland) Act 2006, Section 60

Chamber Ref: FTS/HPC/RT/19/0463

Flat 2/2, 130 Ferguslie, Paisley, PA1 2XP (Title Number REN 19980)
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The Parties:-

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Renfrewshire House, Cotton Street, Paisley PA1 1JD
(“the third party applicant”)

Neda Ghaffar, Luachair Cottage, East Tarbert, Isle of Harris, HS3 3DB
(“the original landlord”)

Tribunal Members:

Adrian Stalker (Chairman) and Donald Wooley (Ordinary Member)

Decision

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’), decided to certify that the work required by the Repairing Standard Enforcement Order (“RSEO”) of 14 May 2019, has been completed, with effect from the date of service of this decision, and to issue the relative certificate under section 60 of the Housing (Scotland) Act 2006.

Background

1. On 14 May 2019, the Tribunal made a determination that the original landlord had failed to comply with the duties imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”). On the same date, the Tribunal issued an RSEO in respect of the property. The RSEO made by the Tribunal required the landlord to:-

- (1) To produce to the Office of the Tribunal and to the third party applicant, an Electrical Installation Condition Report (“EICR”) from a SELECT, NICEIC or NAPIT registered electrician in respect of the property. In the event that the EICR identifies any items specifically categorised as C1 or C2 under “section K” in the report where any part of the electrical installation in the property is not in a reasonable state of repair and in proper working order, the Tribunal requires the landlord to carry out such work as is necessary to put that electrical installation in a satisfactory state of repair and in proper working order,
- (2) To provide to the Office of the Tribunal and to the third party applicant written documentation from a SELECT, NICEIC or NAPIT registered electrician confirming that all portable electrical appliances provided to the tenant under the terms of the lease have the necessary satisfactory PAT (Portable Appliance Test) certification.
- (3) To produce to the Office of the Tribunal and to the third party applicant a satisfactory Gas Safety certificate from a Gas Safe registered engineer in respect of the property and specifically to obtain a report from the engineer in respect of the gas fired central heating confirming that it complies with all statutory regulations, is in a reasonable state of repair and is in good working order.
- (4) To instruct a suitably qualified tradesman to inspect the windows and surrounding areas within the bedroom in order to identify the source of the dampness and repair or renew any defective areas or fittings as necessary, ensuring that they are in a reasonable state of repair and in proper working order.

The Tribunal ordered that the works specified in the RSEO were to be carried out and completed within six weeks from the date of service of the RSEO.

2. A further inspection of the property was undertaken by the Ordinary Member (Surveyor) of the Tribunal on Thursday 19 December 2019. His inspection report, of the same date, concluded:

I am unable to confirm that the relevant work in respect of item numbers 2, 3 and 4 as described in the original Repairing Standard Enforcement Order (RSEO) dated 14 May 2019 have been addressed.

Specifically there is no evidence of PAT testing having been completed and there does not appear to be a Landlord’s Gas Safety Certificate in relation to the gas fire / former back boiler or any other gas appliance within the property. Repairs and further investigation of

the water ingress at and around the bedroom windows remains outstanding.

3. Subsequently, the Tribunal received correspondence bearing to be from the original landlord's father, Abdul Ghaffar, on 13 and 27 January 2020. In essence, this indicated that certain work had been carried out at the property since 19 December, but that it had been impossible to address the dampness problem to which reference is made in item (4) of the RSEO. In light of that correspondence, the Tribunal elected to fix a further hearing, in order to clarify whether the landlord sought variation or revocation of the RSEO. That was due to take place on 25 March 2020. However, the hearing was discharged, due to the Covid-19 lockdown measures.
4. On 14 May 2020, the Tribunal received written correspondence from the landlord's agents, confirming that the property had been sold by the landlord to Shacharit Alpha Ltd. It was also advised that the new owners were represented by Messrs R & RS Mearns, solicitors. Subsequently, the Tribunal wrote to Messrs R & RS Mearns, and the new owners, seeking confirmation as to their position in relation to the RSEO. In particular, they were asked to confirm whether they intended to arrange for the outstanding work to be carried out, or whether they wished to seek revocation or variation of the Order.
5. In their emails of 25 June and 4 September, Messrs R & RS Mearns indicated that the new owners had not yet determined what they wished to do with the property. However, they had no intention of re-letting it, while the RSEO was in force. They did not indicate any intention of seek variation or revocation of the RSEO.
6. In the circumstances, the Tribunal considered that it had no alternative, at that time, but to make decision under section 26(1) of the Act 2006 ("the Act") that the original landlord had failed to comply with the RSEO made by the Tribunal on 14 May 2019. A decision to that effect was issued on 19 October 2020.
7. On 26 November 2020, the Tribunal's clerk received an email intimating that the property had been sold again, to the current owners, Chermain Heights Ltd ("CHL").

Current position

8. On 25 January 2021, the Tribunal's clerk received an email from Drew Mason, a director of Oakshaw Property Group ("Oakshaw"). CHL are

clients of Oakshaw. The email explained that CHL had instructed Oakshaw to carry out “A comprehensive and robust program of works...to make the property suitable for habitation and compliant with all letting requirements.”

9. The email referred to the particular terms of the RSEO, and explained that the program of works included:

- Removal of old furnishings and strip back to bare shell.
- Electrical works to make compliant with legislation including replacement of consumer unit, linked smoke and heat detectors. Accompanied by a valid EICR.
- Replace boiler and carry out maintenance to full system. Accompanied by a valid gas safety certificate.
- Replace old defective windows with new UPVC D/G windows.
- Plaster and decoration throughout the property.
- New floor coverings throughout.
- Replace kitchen
- Replace Bathroom
- Clearance of debris from rear garden.
- Interior doors replacement.

10. Attached to the email were an EICR, a Gas Safety Certificate and various photographs, showing the completed work.

11. Mr Mason submitted a further email on 12 February, confirming that the works had been completed. He attached further photographs, for the Tribunal’s consideration.

12. By email dated 10 March 2021, the Tribunal asked Mr Mason to provide photographs of the exterior of the building, in order that the location of the new windows could be confirmed. These were provided on 11 March.

Decision

13. Under normal circumstances, the Tribunal would have arranged to carry out a further inspection, in order to satisfy itself as to the completion of the works described in the RSEO. However such inspections are currently impossible, due to the restrictions imposed in consequence of the current COVID-19 pandemic. The President of the Housing and Property Chamber has confirmed that in repairs cases, the Tribunal may consider photographic or video evidence, in lieu of an inspection.

14. On careful consideration of these photographs and other evidence provided by Mr Mason, the Tribunal is satisfied that the necessary remedial work envisaged by the RSEO has been completed, and there are no outstanding repairs.
15. Accordingly, the Tribunal decided to certify that the work required by the RSEO has been completed. The section 60 Certificate is referred to for its terms.
16. The decision of the Tribunal was unanimous.
17. In terms of section 63 of the Housing (Scotland) Act 2006, this decision, and the variation, have effect from the date on which it is served.
18. **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.**
19. 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.

A Stalker

Signed

Date 19 March 2021