

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Certificate of completion of work: Housing (Scotland) Act 2006 Section 60**

**Chamber Ref: PRHP/RP/16/0060**

**Title No: LAN 92472**

**Property at Flat 1/1 544 Hamilton Road, Uddingston, G71 7SG ("The Property")**

**The Parties: -**

**Robert Hannah, currently residing at 8 Croftbank Crescent, GL, Bothwell ("the former Tenant")**

**Naeem Ahmed 7 Hawksland Walk, Hamilton ML3 7NX, Parveen Akhtar Ahmed 37 Covanburn Avenue, Hamilton, ML3 7PX, Mohammed Nazir (Deceased) c/o Stonevale Lettings Ltd, 18 Avon Street, Hamilton, ML3 7HU, Shahida Parveen Arshad 14 Baltersan Gardens, Hamilton ML3 7QW; Stonevale Lettings Ltd, 18 Avon Street, Hamilton ML3 7HU ( the Landlord(s))**

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 Property dated 9 May 2016 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 type written are executed by Josephine Bonnar, Solicitor, Legal Member of the Tribunal at Motherwell on 26 June 2017 before this witness:-

G Bonnar

Witness **J Bonnar** Legal Member

Gerard Bonnar

Name in full

1 Carlton Place, Glasgow

Address

# **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/16/0060**

**Re: Property at Flat 1/1 544 Hamilton Road, Uddingston, G71 7SG ("the Property")**

**Title No: LAN 92472**

**The Parties:-**

**Robert Hannah currently residing at 8 Croftbank Crescent, G/L, Bothwell, G71 8RS ("the former Tenant")**

**Naeem Ahmed 7 Hawksland Walk, Hamilton ML3 7NX, Parveen Akhtar Ahmed 37 Covanburn Avenue, Hamilton, ML3 7PX, Mohammed Nazir (Deceased) c/o Stonevale Lettings Ltd, 18 Avon Street, Hamilton, ML3 7HU, Shahida Parveen Arshad 14 Baltersan Gardens, Hamilton ML3 7QW; Stonevale Lettings Ltd, 18 Avon Street, Hamilton ML3 7HU ( the Landlord(s))**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (the Tribunal), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order (RSEO) relative to the property dated 9 May 2016 determined that the Landlord has complied with the Order and that a Certificate of Completion to that effect should be issued.**

**The Tribunal comprised: -**

**Mrs Josephine Bonnar, Legal Member**

**Ms Carol Jones, Ordinary Member**

## Background

1. By application received on 12 February 2016 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The Application by the Tenant stated that the Tenant considered that the Landlords had failed to comply with their duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:- the house is wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed. Specifically the Tenant complained of dampness in the property, uneven floors, a leak in the toilet ceiling and a defective washing machine.
3. The Private Rented Housing Panel served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenant on 15 March 2016.
4. The Private Rented Housing Committee inspected the Property on the morning of 25 April 2016. The Tenant was present during the inspection. Neither the Letting Agent nor the Landlords were present during the inspection.
5. Following the inspection of the property the Private Rented Housing Committee held a hearing at Brandon Gate, Leechlee Road, Hamilton. The Tenant and the Letting Agent, Margaret Jamieson of Stonevale Lettings Ltd were both present and gave evidence.
6. Following the hearing the Committee proceeded to issue a Repairing Standard Enforcement Order (RSEO). The RSEO required the Landlord (1) To instruct a suitably qualified Building Contractor to carry out the works required to eradicate all water penetration and dampness and render the property wind and watertight, (2) To repair the washing machine to restore it to proper working order or replace it with a new washing machine and (3) To investigate the cause of the slope in the floors within the property and carry out repairs to rectify this defect in the floors. The work required in terms of the RSEO was to be completed within 12 weeks
7. The Ordinary Member re-inspected the property on 15 September 2016. One of the Landlords, Naeem Ahmed, Margaret Jamieson of Stonevale Lettings and the Tenants girlfriend Danielle Sweeney were present. The Ordinary Member of the Committee noted that the washing machine has been replaced with a second hand machine which Ms Sweeney confirmed

is in working order. No further work had been carried out in terms of the RSEO.

8. Following the re-inspection a re-inspection report was issued to the parties for their comments. On 11 October 2016 the Landlord submitted written representations which indicated that the work required in terms of the RSEO was to be carried out as part of a larger refurbishment project involving the whole building. The work was scheduled to start mid October 2016. In light of the representations a further hearing was assigned for 14 November 2016. On the 21 October 2016 the letting agents submitted paperwork to the PRHP relating to the proposed refurbishment. They also advised that the Tenant had been decanted from the property to another property while the work is carried out. The Tenant subsequently confirmed that he had been decanted but confirmed that he will move back into the property after completion of the work. On 11 November 2016 the letting agent requested a postponement of the hearing and in addition requested a variation of the RSEO to allow the works, which have now commenced, to be completed. The estimated timescale for the works was 16 weeks from the start date of 10 October 2016. The Tenant confirmed that he had no objection to the hearing being postponed. He made no representations in relation to the request for a variation of the order. The Committee proceeded to grant a variation of the RSEO by extending the time for completion of the works until 28 February 2017.
9. On 1 December 2016, the PRHP transferred to the First-tier tribunal for Scotland. The property was scheduled for re-inspection by the Ordinary Member on 6 March 2017. On 17 February 2017, the Tribunal received an email from the Letting Agent which advised that the refurbishment of the property was not yet complete but work was underway. The Letting agent asked for the re-inspection to be postponed and provided paperwork in support of the request including emails, minutes of meetings and progress reports. The Tribunal considered the documentation which established that significant work had been carried out and was ongoing. On 13 March 2017 the Tribunal received an email from the letting agent confirming that a variation of the RSEO was sought to enable the work to be completed. The email indicated an approximate completion date of end of April 2017. The Tribunal proceeded to grant a variation of the RSEO by extending the time for completion of the works until 31 May 2017.
10. On 25 April 2017, the letting agent intimated that the works were complete. A re-inspection was scheduled for 22 May 2017. The Ordinary Member attended the property on that date and carried out the re-inspection. The Landlord, Mr Naeem Ahmed was in attendance. Also, Mr Alan Shields from the letting agency "Let's Move". The tenant was not present. A copy of the re-inspection report is attached to this decision. The Ordinary Member concluded that extensive works have been carried out to eradicate water penetration and damp. The washing machine had already been replaced. Although there is still a slope to the floors joists and floorboards have been replaced and there is no movement. There are new floor coverings. It appeared that the works required by the RSEO have been completed.

However, the Ordinary Member noted that there has been work carried out to the communal close. In particular, some sections of walls have been plastered but not painted. The close is generally in a poor state of repair.

11. The re-inspection report was issued to the parties. The Tenant failed to respond to same or make any representations. The Landlord had advised at the re-inspection that the Tenant had failed to resume occupation of the property following completion of the work, although he had been notified that he was now required to do so. Representations were received from the Landlord. These included a report from Bromac Ltd dated 5<sup>th</sup> June 2017 which confirmed that, following inspection, the property shows no evidence of fungal decay or dampness, any slope in the floors is due to past settlement, condensation was noted but was due to lack of ventilation and a constant heat source. No remedial works were recommended. The Landlord stated that the common areas were not part of the RSEO. He further stated that the common areas had not been painted due to lack of funding but that it was hoped that this would be addressed in due course. The representations from the Landlord and the Bromac report were intimated to the tenant but he did not respond.

#### **Reason for decision**

12. The Tribunal considered the condition of the property as at the date of reinspection. It was noted that extensive work has been carried out to eradicate damp and water penetration. Some walls have been re-plastered and the whole flat re-decorated. It had been established at a previous inspection on 15 September 2016 that the washing machine has been replaced. Although there is still a slope in the floors the Tribunal are satisfied that joists affected by rot and floorboards have been replaced and that there is no obvious movement. There are new floor coverings throughout. The tribunal also considered the report from Bromac and found the content of same to be consistent with the findings at re-inspection. The Tenant failed to respond to intimation of the re-inspection and failed to attend the re-inspection. He failed to respond to the re-inspection report or the Landlord's representations. The Tribunal were advised that he has not moved back into the property and concluded that his tenancy may now have ended. Indeed, the Landlord is currently looking to re-let the property. The Tribunal is concerned about the condition of the communal close. It is disappointing, given the extensive works carried out, that the close remains in a poor condition. Some re-plastering has been carried out but no re-decoration. However, the Tribunal noted that the application by the Tenant related only to the flat and the RSEO only required work to be carried out in relation to the flat. The Tribunal hopes however, that the Landlord will arrange for the close to be decorated, as indicated in his representations.
- 13 The Tribunal concluded that the work required in terms of the RSEO has been carried out and that a certificate of completion to that effect should be issued.



## **Decision**

14. The Tribunal accordingly determined that the Landlord had complied with the RSEO and proceeded to issue a certificate of completion.

15. The decision of the Tribunal was unanimous

## **Right of Appeal**

**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.

Signed

**J Bonnar**

Date 26 June 2017

Josephine Bonnar, Legal Member



## Re-inspection report



**Date of inspection:** Monday 22 May 2017.

**Reference Number:** PRHP/RP/16/0060

**Property:** Flat 1/1, 544 Hamilton Road, Uddingston, Glasgow G71 7SG

**Surveyor:** Carol L Jones MA MRICS

**Previous Inspections:** The subject property was inspected by a full committee of the Private Rented Housing Panel on 25 April 2016 and as a result a Repairing Standard Enforcement Order dated 9 May 2016 was served. The property was re-inspected on 15 September 2016. At that time the majority of works had not yet commenced and the Order was subsequently varied on two occasions to accommodate the scale and communal nature of the works.



**Access:** One of the landlords, Mr Naeem Ahmed provided access.

**Weather:** Overcast with light rain.

**In attendance:** Mr Naeem Ahmed attended the inspection. Mr Alan Sheilds from the letting agency "Lets Move" was also present in the property at the time of the inspection. The tenant has not moved back into the property yet and the flat is currently vacant.

**Repairing Standard Enforcement Order (RSEO) dated 9 May 2016.**

**Works required by the RSEO:**

**the Private Rented Housing Committee requires the landlord to carry out such work as is necessary for the purposes 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 this Order is made good.**

**In particular the Private Rented Housing Committee requires the landlord:-**

- 1) To instruct a suitably qualified Building Contractor to carry out the works required to eradicate all water penetration and dampness and render the property wind and watertight.**
- 2) To repair the washing machine to restore it to proper working order or replace it with a new washing machine.**
- 3) To investigate the cause of the slope in the floors within the property and carry out repairs to rectify this defect in the floors.**

**The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of twelve weeks from the date of service of this Notice.**

**Works in the RSEO undertaken - see attached photograph schedule below:**

- 1) Extensive works to eradicate the water penetration and damp in this property have now been undertaken. The landlord previously forwarded a tender acceptance letter dated 9 August 2016 to EBS Construction Ltd to carry out major works to this tenement including common fabric repairs, timber preservation, re-roofing etc. and it appears that the works have been carried out although the landlord said the contractor ran out of money and he had to complete the rot works in the bathroom and re-instate all the fittings and floor covering himself. Damp meter readings were taken in the Living Room, Bedroom and Bathroom, only one reading to the right side of the window in the living room showed a moderate moisture level. Some walls have been re-plastered and the whole flat re-decorated.**
- 2) The landlord had replaced the washing machine with a second hand appliance before the re-inspection on 15 September 2016 and the tenant's girlfriend confirmed it was in proper working order at that time.**

3) There is still a slope to the floors in this flat but joists affected by rot and floorboards have been replaced and there is no obvious movement. New floor coverings have been laid in the hall, living room, bathroom and bedroom.

**Works in the RSEO outstanding - see attached photograph schedule below:**

1) The works to the affected areas in the communal close have not been made good. Some sections of walls have been re-plastered but not painted.

**All photographs were taken at the re-inspection on 22 May 2017 (see schedule below).**

**Comments:** This report will be submitted to the First-tier Tribunal for Scotland (Housing and Property Chamber) for their decision.

**Carol L Jones MA MRICS**

**Ordinary Member (Surveyor)**

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

**22 May 2017**

**Schedule of photographs taken during the re-inspection of Flat 1/1, 544 Hamilton Road, Uddingston, Glasgow G71 7SG by the ordinary member of the First-tier Tribunal for Scotland (Housing and Property Chamber) on the 22 May 2017.**

Reference Number : PRHP/RP/16/0060



Front Elevation



Front Elevation



Rear Elevation



Living Room



Living Room - recessed cupboard



Living Room - new floor and covering



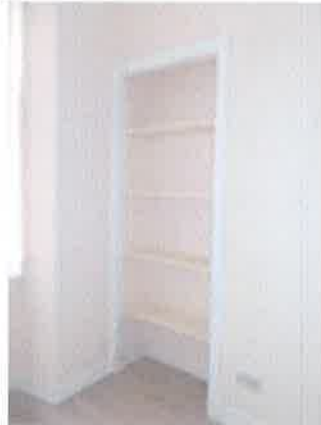
Kitchen



Hall



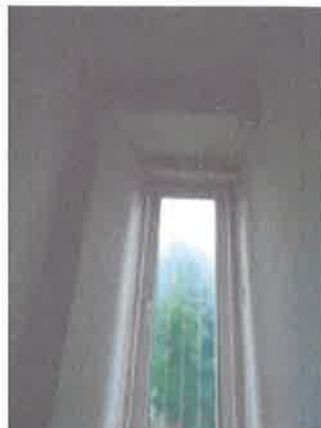
**Bedroom**



**Bedroom - recessed cupboard**



**Bathroom - new fittings**



**Bathroom - window and ceiling**



**Bathroom - internal surface of wall to communal close**



**New window to half landing between ground and first floor**



Stairs and walls to communal close between first floor and half landing below



Exposed new plasterwork to communal close on half landing between ground floor and first floor



Exposed new plasterwork to communal close on half landing between ground floor and first floor



Stairs and walls to communal close between first floor and half landing below



Stairs and walls to communal close between first floor and half landing above.



Exposed new plasterwork to communal close on half landing between first and second floor