

Housing and Property Chamber

First-tier Tribunal for Scotland



DETERMINATION BY FIRST-TIER TRIBUNAL FOR SCOTLAND (HOUSING AND PROPERTY CHAMBER)

Statement relative to the Certificate of Completion of work issued by the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 60 of the Housing (Scotland) Act 2006

Chamber Reference FTS/HPC/RP/17/0343

Title number: Subjects registered in the Land Register of Scotland under title number ANG13795

House address: G/L, 44 Main Street, Dundee, DD3 7HN ('the House')

The Parties

Mr Akhtar Mohammad, formerly residing at G/L, 44 Main Street, Dundee, DD3 7HN ("The Tenant")

Mr Ghulam Qadar and Mrs Zahida Qadar, 367 Clepington Road, Dundee, DD3 8ED ("The Landlords")

Tribunal Members

Ms Helen Forbes (Legal Member)

Mr David Godfrey (Ordinary Member)

Background

1. Further to a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") dated 6th April 2018, the Tribunal issued a Repairing Standard Enforcement Order ("RSEO") relative to the House. The RSEO required the Landlord to:
 1. Take reasonable steps to investigate the leak in the bathroom ceiling; and to have said leak repaired;

2. Investigate and resolve the situation in relation to the dampness within the walls adjacent to the mutual close, and the condensation dampness within the House;
3. Repair or replace the windows throughout the House to ensure that they are in a reasonable state of repair and in proper working order, ensuring that:
 - (a) all windows open and close in a proper manner;
 - (b) all double-glazing units are effective;
 - (c) all weathered timber components are in a reasonable state of repair;
4. Repair or replace the washing machine to ensure that it is in a reasonable state of repair and in proper working order;
5. Produce a satisfactory gas safety certificate from a Gas Safe Registered Engineer.

The Committee ordered that the works specified in the RSEO must be carried out and completed within a period of 12 weeks from the date of service of the RSEO, which was 19th April 2018.

2. Re-inspection of the House was undertaken by the Ordinary Member of the Tribunal on 1st August 2018. The Landlord was not present and did not provide access to the Property. A copy of the re-inspection report dated 1st August 2018 is attached as a schedule to this Statement of Decision. The Ordinary Member found that there was no evidence, from an external inspection, to suggest that any of the works had been completed. The Landlords were provided with a copy of the re-inspection report and given an opportunity to make comments. No response was received from the Landlords.
3. The Tribunal considered that, on the balance of probabilities, it was unlikely that any of the works required by the RSEO had been carried out by the Landlords. Accordingly, the Tribunal took the view that the Landlords' failure to implement the RSEO amounted to a breach of the RSEO.
4. By amended decision dated 12th October 2018, the Tribunal determined that the Landlords had failed to comply with the RSEO in terms of section 26(1) of the Act. A notice of the failure to comply was served on the Local Authority for the area in which the House is situated.
5. By email dated 10th July 2019, the Landlord informed the Tribunal that the works required by the RSEO had been completed.
6. A re-inspection was carried out by the Ordinary Member on 14th August 2019. A copy of the re-inspection report dated is attached as a schedule to this Statement of Decision. The Ordinary Member found that certain works required by the RESO remained outstanding, namely;

- (i) High Protimeter (Damp meter) readings were recorded in the lower walls of both the Living Room and Kitchen party walls with the mutual entrance close. A specialist report was not provided.
- (ii) There is a catch missing from the Bedroom window and misting from a defective seal in the Living Room window was evident.
- (iii) The washing machine has not been replaced and no evidence has been produced to confirm that it is in proper working order.

The report was circulated to the Landlords. By email dated 28th August 2019, the Landlords requested a hearing.

- 7. A hearing took place on 4th November 2019 at the Carer's Centre, Seagate, Dundee. The Landlords were present. The Landlords provided copy documents to indicate that new windows and a damp-proof course had been installed. The Landlords showed the Tribunal photographs of the two new living room windows and a photograph of the new bedroom window, taken from inside the House. The Landlords showed the Tribunal a video taken on their mobile phone of a washing machine switched on and filling up with water. The washing machine was the same make and model as that previously seen at re-inspection of the House.
- 8. The Tribunal decided that another re-inspection would be appropriate to ascertain whether the RSEO had been complied with. A further re-inspection took place on 6th December 2019. A copy of the report of the Ordinary Member is attached as a schedule to this Statement of Decision. The Ordinary Member found that there were no works outstanding from the RSEO at the time of inspection.
- 9. The report was circulated to parties on 16th December 2019. No written representations or response was received from parties.

Decision

- 10. The Tribunal considered whether or not it was appropriate to find that the works required by the RSEO had been completed and the appropriate Certificate of Completion in terms of section 60 of the 2006 Act should be issued. The Tribunal agreed that the appropriate Certificate should be issued.

Right of Appeal

- 11. **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 62 of the 2006 Act

12. Where such an appeal is made, the effect of the decision and 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 decisions and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

H Forbes

Chairperson

Date: 7th January 2020