

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: PRHP/RP/16/0012

Title Number: LAN 40229

1/2 152 Almada Street, Hamilton ML3 0EW ("the Property")

The Parties:-

Liam White and Chloe Balfour ("the former Tenant(s)")

**Ajmal Mushtaq, 78 Union Street, Hamilton ML3 6NE; Next Move Scotland Ltd,
40 Gateside Street, Hamilton, ML3 7JG ("the Landlord")**

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 23 April 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, Chairperson of the Tribunal at Motherwell on 28 January 2017 before this witness:-

G Bonnar

Witness

J Bonnar Chairperson

Gerard Bonnar

Name in full

58 Port Dundas Road

Address

Glasgow

Housing and Property Chamber

First-tier Tribunal for Scotland



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Statement of Decision: Housing (Scotland) Act 2006 Section 60

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**Ajmal Mushtaq, 78 Union Street, Hamilton ML3 6NE; Next Move Scotland Ltd,
40 Gateside Street, Hamilton, ML3 7JG ("the Landlord")**

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 made on 23 April 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, Chairperson

Ms Carol Jones, Ordinary Member

Background

1. By application received on 18 January 2016 the Tenants 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 Tenants stated that the Tenants considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord 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 fixtures, fittings and appliances provided by the landlord under the tenancy 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; the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire; the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. Specifically the Tenants complained of ceiling leaks in the kitchen and living room, damage to windows, defects in the shower and washing machine, lack of smoke and carbon monoxide detectors and lack of a gas safety certificate.

3. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenants on 4 March 2016.
4. The Private Rented Housing Committee inspected the Property on the morning of 14 April 2016. Following the inspection the Committee held a hearing at The Bothwell Bridge Hotel, Bothwell. The Tenants and the Landlord were both present and gave evidence. Following the Hearing the Committee determined that the Landlord had failed to comply with Section 14(1)(b) of the Act and issued a Repairing Standard Enforcement Order. In terms of same the Landlord was required to (1) to instruct a suitably qualified building contractor to inspect the property, investigate the source of water penetration in the living room and kitchen and report on the works required to eradicate any water penetration and render the property wind and watertight. Thereafter to carry out the repairs recommended by said building contractor and make good all internal plaster work and paintwork, (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 any water penetration at the windows in the front master bedroom and carry out repairs to ensure that the property is wind and watertight, (4) to replace the centre and right side lower double glazing of the windows in the front master bedroom with new sealed double glazing units, (5) to repair or replace the windows in the living room so that they are in a reasonable state of repair and in proper working order, and (6) to install a mains wired interlinked smoke detector in the living room. The said repairs had to be completed within six weeks of the order being served on the Landlord.
5. The Tenants notified the PRHP that they vacated the property on 24 May 2016.
6. Following expiry of the period of time allowed for completion of the works a re-inspection was arranged for 25 July 2016. The Ordinary Member of the Committee attended at the property but there was no one in attendance to allow access. Thereafter a further re-inspection and hearing were arranged. The Committee attended at the property on 22 August

2016 and inspected the property. The Landlord was in attendance. Thereafter a hearing took place at Brandon Gate, 1 Leechlee Road, Hamilton. The Landlord was present at the Hearing and gave evidence.

7. Following the hearing the Committee issued a Variation of the RSEO. In terms of the Variation the time allowed for completion of the work was extended by a further four weeks.
8. The Ordinary Member re-inspected the property on 31 October 2016. The Landlord was in attendance. The Ordinary Member prepared a re-inspection report which was issued to the Landlord for his comments. The report is attached to this decision. It confirmed that the majority of the works required in terms of the RESO have been completed. The Landlord advised the Ordinary member that roof repairs have been carried out to eradicate water penetration. The Surveyor member noted that the damage to the ceilings have been fixed and the ceilings finished and decorated to a high standard. The damaged double glazing units in the master bedroom have been replaced and no water penetration or condensation between the panes was evident at the inspection. The living room windows have been repaired and serviced and are now in proper working order. The Landlord stated that the washing machine has been checked by a plumber and is in working order. The Ordinary member was unable to establish if this is the case and as the property is currently unoccupied there is no tenant to confirm the position. The Landlord had failed to install a hard wired interlinked smoke detector in the living room. He advised the Ordinary Member that he did not intend to do so.
9. Following the issuing of the re-inspection report the Landlord submitted written representations on 24 November 2016. These indicated that the washing machine had now been removed from the property and a hard wired smoke alarm installed in the living room. Photographs of the smoke alarm were provided. On 19 January 2017, in response to a request from the Tribunal for additional evidence, the Landlord submitted an electrical certificate which confirmed that a hard wired smoke alarm had been fitted in the living room on 21 November 2016. Photographs showing that the washing machine has been removed were also provided on this date.

Reason for decision

10. The Tribunal considered the re-inspection report, the representations and photographs submitted by the Landlord together with the electrical report. Although the RSEO had required that the washing machine be repaired or replaced the Tribunal was satisfied with the decision to remove same. The property has been unoccupied since the previous tenant vacated the property on 24 May 2016. The property is otherwise unfurnished. The Tribunal did not have conclusive evidence that the machine was in working order although the Landlord indicated at the hearing that it was. In all the circumstances, the removal of the machine satisfied the Tribunal that no breach of the repairing standard remains in relation to same. The

remainder of the work has been complied with as evidenced by the re-inspection report and the photographs and report subsequently provided by the landlord. The Tribunal concluded that all work required in terms of the RSEO now appears to have been completed satisfactorily.

Decision

11. The Tribunal accordingly determined that the Landlord had complied with the RSEO and that a certificate of completion to that effect should be issued.

12. The decision of the Tribunal was unanimous

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.

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.

J Bonnar

/Josephine Bonnar
Chairperson

28 January 2016



Private Rented Housing Panel (prhp) Re-inspection report



Date of inspection: Monday 31 October 2016.

Reference Number: PRHP/RP/16/0012

Property: 1/2, 152 Almada Street, Hamilton ML3 0EW

Surveyor: Carol L Jones MA MRICS

Previous Inspections: The subject property was inspected by a full committee of the Private Rented Housing Panel on 14 April 2016 and as a result a Repairing Standard Enforcement Order dated 23 April 2016 was served. A re-inspection was carried out by the same full committee on 22 August 2016 prior to a further hearing on the same day.

Access: The landlord Mr Ajmal Mushtaq provided access.

Weather: Dry, cold with hazy sunshine.

In attendance: The landlord Mr Ajmal Mushtaq attended the inspection.

Repairing Standard Enforcement Order (RSEO) dated 23 April 2016.

The Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house 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 inspect the property, investigate the source of water penetration in the living room and kitchen and report on the works required to eradicate any water penetration and render the property wind and watertight. Thereafter to carry out the repairs recommended by said Building Contractor and make good all internal plaster work and paintwork.

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 any water penetration at the windows in the front master bedroom and carry out repairs to ensure that the property is wind and watertight.

4) To replace the centre and right side lower double glazing of the windows in the front master bedroom with new sealed double glazing units.

5) To repair or replace the windows in the living room so that they are in a reasonable state of repair and in proper working order.

6) To install a mains wired interlinked smoke detector in the living room.

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

A Notice to Vary a Repairing Standard Enforcement Order was subsequently issued by the committee extending the time limit for the completion of works by a further 4 weeks following the re-inspection and hearing on 22 August 2016

Works in the RSEO undertaken:

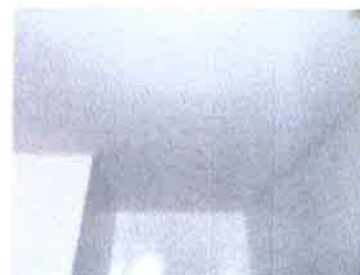
1) Since the inspection on 22 August 2016 the landlord says he has had further works carried out to the roof to eradicate any remaining source of water penetration above the kitchen and living room. All works to make good previous water damage to the ceilings in the kitchen and living room have been completed and the decor is of a good standard.



Living Room ceiling



Kitchen ceiling



Kitchen Recess ceiling

2) The washing machine has not been replaced but the landlord says the existing one is in proper working order and a plumber has tested it. It was not tested at this inspection, there is no evidence to prove it functions adequately and I am unable to confirm whether it is working or not.



3) The landlord's contractor has replaced the sealed double glazing units in the centre and right side lower windows in the front master bedroom (see below) and the landlord informed me that this contractor said any water penetration under these windows would have been caused by the failure of the sealed units with condensation leaking from the base. There was no evidence of any water penetration at this inspection and the timber panels below the windows appear to be in good order with no signs of any water staining.



4) The lower double glazing units have been replaced to the centre and right side windows in the front master bedroom with brand new sealed units. There is no longer any condensation between the panes.



5) The living room bay windows have all been repaired and serviced. All windows now open and close properly and are secure.



Outstanding works:

2) As stated above I am unable to confirm whether the washing machine is in proper working order

6) The landlord has not installed a mains wired interlinked smoke alarm in the living room. This room has no provision for the detection of fires.



All photographs were taken at the re-inspection on 31 October 2016.

Comments: This report will be submitted to a full Committee of the Private Rented Housing Panel for their decision

**Carol L Jones MA MRICS
Surveyor Member PRHP
31 October 2016**