

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/16/0173

Title no: WLN5363

Re: Property at 16 Bathgate Road, Blackburn, West Lothian EH47 7LW ("the Property")

The Parties:-

Miss Noreen Keenan, 16 Bathgate Road, Blackburn, West Lothian EH47 7LW ("the Tenant")

Braidwood Motor Company Limited, incorporated under the Companies Acts (Company No. 235866) and having its registered office at 16 Drumshoreland Road, Pumpherston, West Lothian EH53 0LN ("the Landlord")

Tribunal members: George Clark (Legal Chair) and Andrew Taylor (Ordinary Member)

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 made on 6 September 2016 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

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.

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 page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the tribunal at Lasswade, Midlothian on 20 March 2017 before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

G Clark

V Clark chairperson

witness

Housing and Property Chamber First-tier Tribunal for Scotland



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: prhp/rp/16/0173

Re: Property at 16 Bathgate Road, Blackburn, West Lothian EH47 7LW ("the Property/
the house")

The Parties:-

Miss Noreen Keenan, 16 Bathgate Road, Blackburn, West Lothian EH47 7LW ("the
Tenant")

Braidwood Motor Company Limited, incorporated under the Companies Acts
(Company No. 235866) and having its registered office at 16 Drumshoreland Road,
Pumpherston, West Lothian EH53 0LN ("the Landlord")

Tribunal members: George Clark (Legal Member) and Andrew Taylor (Ordinary
Member)

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order in respect of the Property made on 6 September 2016, determined that the Landlord has complied with the Order and that a Certificate of Completion should be issued in terms of section 60(5) of the Housing (Scotland) Act 2016.

Background

1. By application received on 28 April 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 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:-
 - (a) the house is wind and water tight and in all other respects reasonably fit for human habitation,
 - (b) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order,

- (c) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order and
- (d) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire.
3. By letter dated 26 July 2016 the Private Rented Housing Panel intimated a decision by the President to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
 4. The Private Rented Housing Committee inspected the Property on the morning of 6 September 2016. The Tenant was present during the inspection. The Landlord was neither present nor represented during the inspection.
 5. The Committee comprised George Clark (chairman) and Andrew Taylor (surveyor member).
 6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Blackburn Community Centre, Ash Grove, Bathgate EH47 7LJ and, following the hearing, the Committee issued a Repairing Standard Enforcement Order in respect of the Property ("the Order").
 7. The Order required the Landlord to:
 - Instruct an RICS registered building surveyor to carry out a survey and report on the condition of the subfloor of the property with particular reference to the water ingress at the kitchen area. The report should also examine the condition and operation of the soil, waste and rainwater pipework at that area and any relationship to the water ingress. Carry out and complete any and all repairs to the property identified and recommended by the said report.
 - On completion of these works make good or replace the kitchen chipboard flooring, skirting etc. and supply and fit vinyl floor covering
 - Engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and report on the gas fired heating and hot water supply installation including boiler, all radiators, valves, programmers, thermostats and shower valves. Follow the recommendations of that report to ensure that the entire system is safe and in proper working order. Provide a valid CP12 Gas Safety Certificate.
 - Engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the entire electrical installation of the property. The inspection and report should include the connections to the gas fired central heating boiler. Follow the recommendations of that report to ensure that all wiring, equipment, appliances and light fittings are safe and in proper working order.
 - Repair or replace the door to main bedroom including all frames, facing and ironmongery.
 - Provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 - Fire, sub- section 2.11 Communication
 - Form brick/concrete seating at the drain rodding point in the side driveway and provide a suitable cast iron removable cover.
 - Carry out all making good and decoration associated with the completion of the foregoing works.

8. The Private Rented Housing Committee ordered that the works specified in the Order must be carried out and completed within the period of 6 weeks from the date of service of the Notice being given to the Parties of the making of the Order.
9. The jurisdiction of the Private Rented Housing Panel was transferred to the Housing and Property Chamber of the First-tier Tribunal for Scotland on 1 December 2016. The members of the Committee became members of the Tribunal with effect from that date.
10. The Ordinary Member of the Tribunal reinspected the Property on 7 December 2016. He reported that:
 - A survey of the Property had been carried out by Shepherd Chartered Surveyors. The survey had identified issues with an escape of water from the drainage system. The recommended works had been carried out.
 - Flooring and insulation had been replaced and a ceramic tile floor finish had been laid and all making good works to skirtings etc carried out.
 - An inspection of the gas fired central heating system had been carried out by a Gas Safe registered engineer, Gas Flow Ltd. Works had been carried out and the controls worked effectively. At the time of the reinspection there was an issue with the effectiveness of the bedroom radiator and the Landlord, who was present at the reinspection, undertook to bleed the radiator. A CP12 Certificate was provided to the Ordinary Member at the reinspection.
 - The Landlord had engaged an electrician to check the system and an Electrical Installation Report had been provided, but the electrician was neither a SELECT nor NICEIC registered contractor, nor was the report in the form specified, namely an Electrical Installation Condition Report.
 - The bedroom door and associated furnishings had been replaced.
 - Fire detection and alarm equipment in accordance with the British Standard on the design of fire detection systems for dwellings had been provided.
 - A new cast iron cover had been provided to the drain rodding point and was suitably seated.
 - Making good and decoration works associated with the works required by the Order had been completed.
 - The Ordinary Member of the Tribunal was satisfied that the only matter which remained outstanding was the requirement to produce an Electrical Installation Condition Report prepared by an electrician who was registered with SELECT or NICEIC.
11. A copy of the reinspection report was sent to the Parties, who were invited to comment on its contents. The Tenant made no comments on the report. The Landlord's comments on the report were received on 19 December 2016. The Landlord asked the Tribunal to accept the Electrical Installation Report that had been provided by an electrical contractor that the Landlord had engaged on many occasions because of his knowledge and attention to detail and advised the Tribunal that the contractor had in excess of 25 years experience and held City and Guilds qualifications.
12. On 21 January 2017, the Tribunal issued a Variation of the Order, giving the Landlord a further 6 weeks within which to comply with its terms. The Statement of Reasons which accompanied the Variation confirmed the determination by the Tribunal that an Electrical Installation Condition Report, prepared by an electrician registered with SELECT or NICEIC was required.
13. On 1 March 2017, the Landlord provided the Tribunal with an Electrical Installation Condition Report prepared by D B Electrics, Livingston, dated 23 February 2017. The Report stated that the system was in good, serviceable, condition.
14. The Tribunal was satisfied with the Report and was able to confirm that the electrical contractor was registered with NICEIC.

Summary of the issues

15. The issues to be determined were whether the Landlord had complied with the Repairing Standard Enforcement Order in respect of the Property and whether a Certificate of Completion to that effect should be issued.

Reasons for the decision

16. The Tribunal was satisfied from the reinspection carried out on 7 December 2016 and the documentation subsequently provided by the Landlord that all of the work required by the Order had been carried out.

Decision

17. The Committee accordingly determined that the Landlord had complied with the Repairing Standard Enforcement Order made on 6 September 2016 and that a Certificate of Completion to that effect should be issued.
18. The decision of the Committee was unanimous.

Right of Appeal

19. **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.**
20. **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.**

G Clark

Signed Date 20 March 2017
Chairperson