

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) being the statutory successor to the Private Rented Housing Committee in terms of the First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (SSI 2016/337).**

Statement of facts and reasons for a decision to grant certificate of completion of work under section 60 of the Housing (Scotland) Act 2006 (“the Act”) issued under the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016

**Chamber Ref:** PRHP/RP/14/0081

**Title number:** STG 51885

**Property:** 5 Thornbridge Road, Falkirk, FK2 9AZ (“the house”)

### **The Parties:-**

Mr William Stewart, 5 Thornbridge Road, Falkirk, FK2 9AZ (“the tenant”)

Mr Mohammed Ali, c/o Roy McIntosh, RTM Lettings and Sales, 178 Grahams Road, Falkirk, FK2 7BY (“the landlord”)

### **Tribunal Members:**

Simone Sweeney (Legal member) Kingsley Bruce (Surveyor member)

### **Decision:**

1. That a certificate of completion of works in terms of section 60 of the Act be issued.

**Statement of facts and reasons:**

2. The Private Rented Housing committee issued a Repairing Standard Enforcement Order (RSEO) on 21<sup>st</sup> May 2015 which was varied in terms of Variation Order dated 26<sup>th</sup> October 2015. Reference is made to the respective Orders. The terms of the RSEO were that the landlord was required to carry out such work as was necessary to ensure that the house meets the repairing standard and in particular the following specific areas:-
  - (i) *To replace or carry out such works to the guttering to ensure that it is water tight and is that it is in a reasonable state of repair and functioning adequately;*
  - (ii) *To replace or secure the electrical socket in the back bedroom of the property to ensure that it is fixed safely to the wall and in proper working order;*
  - (iii) *To replace the shower unit or to carry out such works to the sealing of the unit to ensure that the shower is water tight;*
  - (iv) *To fix a weather seal to the foot of the back door in the kitchen to address the gap between the door and the kitchen wall to ensure that draughts into the property are eliminated.*
3. A period of 4 weeks from 25<sup>th</sup> October 2015 was given to the landlord for the works to be completed.
4. A re-inspection of the property was arranged for 21<sup>st</sup> December 2015. The surveyor member of the tribunal attended on that date but there being no-one present to permit him access, the re-inspection could not proceed on this date.

5. A further re-inspection was arranged for 11<sup>th</sup> March 2016. On that date access was permitted to the surveyor tenant who identified herself as the current tenant, Ms Michelle Cameron. A copy of the surveyor's report of 11<sup>th</sup> March 2016 is attached and referred to for its full terms.
6. The surveyor reported that,  
*"...it was apparent that an electrical socket had been re-secured at that time and the tenant advised that the electrical shower unit on the wall in the shower area had been replaced."*
7. Also, it was identified that, a draught excluder strip had been fitted at the foot of the back door of the property.
8. However, the surveyor identified that,  
*"there was no evidence of works to address defective seal around base of the shower, between the wall and foot-tray and there were indications of ongoing dampness to the lower wall in the hallway adjacent" and that, "there was no evidence of repair or works to the gutter at the front corner of the building which was defective."*
9. In conclusion, the surveyor determined that,  
*"outstanding matters arising from the previous report and evident at the original inspection, which give rise to the RSEO...remain incomplete."*
10. The report of 11<sup>th</sup> March 2016 was intimated to the landlord by letter of 20<sup>th</sup> April 2016 requesting written response from the landlord no later than 4<sup>th</sup> May 2016.
11. There was no response from the landlord to the surveyor's report of 11<sup>th</sup> March 2016.
12. In light of there being works outstanding in terms of the RSEO the tribunal issued a failure to comply order in terms of section 26(2) of the Act. The order

and the statement of reasons for having reached that decision (both dated 30<sup>th</sup> June 2016) are referred to for their full terms.

13. The tribunal administration received a letter from Messrs Bell and Craig solicitors on behalf of the landlord dated 6<sup>th</sup> July 2016. The letter, copy of which is attached, stated that the landlord was, *"in the process of selling"* the property.
14. The letter requested that the *"enforcement order"* be discharged to enable the purchase transaction to proceed. The tribunal understood that order being referred to was the RSEO. The letter stated the following:

*"Our clients have advised that they have carried out the works narrated in your letter and pertaining to the property and the only item now outstanding is the guttering which is not a matter relating to this property as the guttering serves the proprietor of the flat above."*
15. Given the submission that the works required by the RSEO were now complete, the tribunal instructed a third inspection of the property for this to be confirmed.
16. By email of 11<sup>th</sup> August 2016 the tribunal administration was advised that ownership of the property had now transferred from the landlord and the purchase was complete.
17. The third inspection of the property was arranged for 15<sup>th</sup> September 2016. The surveyor was met by a lady identifying herself as the new owner, Ms Simona Minchella. The surveyor was not permitted access to the property. It was Ms Minchella's position that she was unaware of the RSEO and the works which were required to be completed. Ms Minchella advised that she had not carried out any works since assuming ownership of the property.

18. Ms Minchella provided the surveyor with an undertaking that she would complete the outstanding works. A copy of the RSEO and subsequent orders were provided to Ms Minchella in October 2016. In light of the fact that the property was unoccupied and there being a realistic possibility of the works being completed, the tribunal determined that the matter be put on hold for a short period to allow Ms Minchella the opportunity to carry out the works.

19. On 9<sup>th</sup> February 2017, the Tribunal administration received an email from James S Turnbull, solicitor, on behalf of Ms Minchella. The email referred to the RSEO which has been issued over the property. The email read,

*"Miss Minchella has fully refurbished this property and is keen to have a re-inspection of the property arranged as soon as possible in order that this Enforcement Order can be discharged."*

20. A further inspection was carried out at the property on 10<sup>th</sup> March 2017 at 9.30am. A gentleman, identifying himself as Mr Minchella, father of the owner was present. The findings of the surveyor's inspection are set out in his report of 10<sup>th</sup> March 2017, a copy of which is attached.

21. In the report of his findings the surveyor identified that the following works had been completed:

*"Externally, gutter repairs had been undertaken to the front elevation and the front right hand corner. No evidence of significant defect was apparent.*

*The front and rear doors to the house had been replaced.*

*The shower installation had been entirely replaced, with new foot tray, wall lining and screen. The plaster/decoration in the hallway adjacent had been re-instated and there was no evidence of damp penetration."*

*Committee will then decide what further action is required."*

22. A copy of the surveyor's report of 10<sup>th</sup> March 2017 was intimated to Ms Minchella. No response was forthcoming.

## **Findings of the tribunal**

23. The tribunal was satisfied that all work required by the Repairing Standard Enforcement Order had been carried out. The tribunal resolved to issue a Certificate of Completion.
24. The decision of the tribunal was unanimous.

## **Appeal provisions**

25. A party to this application, 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.
26. 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.

**S Sweeney**

..... legal member

AT GLASGOW ON 19<sup>th</sup> MAY 2017

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**Tribunal Members:**

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**CERTIFICATE OF COMPLETION**





The tribunal hereby certifies that the work required by the **Repairing Standard Enforcement Order as varied in terms of an Order** relative to the Property dated 25<sup>th</sup> October 2015 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

### Appeal Provisions

A landlord, tenant or third party 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.

Legal chair.....

  
S Sweeney

Witness.....

  
E Dolan

Glasgow 19<sup>th</sup> May 2017

E. DOLAN MODERN APPRENTICE, BUSINESS SOLUTIONS, WHEATLEY  
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