

# 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).**

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/13/0071

**Title number:** STG 46444

**Property:** 51 Elizabeth Avenue, Stenhousemuir, Larbert, FK5 4BJ (“the property”)

**The Parties:-**

MISS MARNIE PARKES, 51 Elizabeth Avenue, Stenhousemuir, Larbert, FK5 4BJ (“the tenant”)

MR ANGUS McEWAN, c/o 1 Estate Agents, 244 Stonelaw Road, Burnside, Glasgow, G73 3SA (“the landlord”)

**Tribunal Members:**

Simone Sweeney (chairing legal member) Kingsley Bruce (ordinary surveyor member)

**CERTIFICATE OF COMPLETION**

The tribunal hereby certifies that the work required by the **Repairing Standard Enforcement Order** relative to the Property served on 11<sup>th</sup> August 2016 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.

In witness whereof these presents type written on this and the preceding page are executed by Simone Sweeney, solicitor, 25 Cochrane Street, Glasgow, G1 1HL, legal chair of the tribunal at Glasgow on 23rd October 2017 before this witness:-

**S Sweeney**

Chairing legal member....

Witness... **S O'Connor**

~~(SINEAD O'CONNOR)~~

Case worker, First Tier Tribunal (Housing and Property Chamber) 1, Atlantic Quay,  
45 Robertson Street, Glasgow, G2 8JB

# 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/13/0171**

**Property:**

51 Elizabeth Avenue, Stenhousemuir, Larbert, FK5 4BJ (“the property”)

**Parties:**

MISS MARNIE PARKES, 51 Elizabeth Avenue, Stenhousemuir, Larbert, FK5 4BJ (“the tenant”)

MR ANGUS McEWAN, c/o 1 Estate Agents, 244 Stonelaw Road, Burnside, Glasgow, G73 3SA (“the landlord”)

**Title Number: STG 46444**

**Tribunal Members:** Simone Sweeney (Chairing legal member) Kingsley Bruce (Ordinary surveyor member)

**Decision:**

1. The Tribunal determines that the works required by the Repairing Standard Enforcement Order (“RSEO”) of 11<sup>th</sup> August 2015 have been completed and that the landlord has complied with the terms of the RSEO.

2. The Tribunal determines that the RSEO will be revoked and a certificate of completion of works in terms of Section 60 of the Act will be issued.
3. The decision of the Tribunal is unanimous.

### **Background**

4. The Tribunal refers to the terms of the RSEO and determination of 11<sup>th</sup> August 2015, the decision of the tribunal of 21<sup>st</sup> August 2016 and all subsequent decisions.
5. By email of 16<sup>th</sup> February 2017 the landlord contacted the Tribunal and advised that he was no longer the owner of the property having surrendered his ownership, voluntarily. The email read,

*“As I was unable to rent the flat and have no rental income, I had no option but to surrender the property.”*

Attached to the email were completed forms confirming the Voluntary Surrender.

6. By an email to the Tribunal dated 9<sup>th</sup> March 2017 from Optima Legal solicitors, the Tribunal was advised that the property had been purchased and that the new owners were Bruno and Gabriella Minchella. Further, the email confirmed that,

*“The date of entry is 13<sup>th</sup> March 2017, the purchasers have confirmed that they are happy to take on the responsibility for the repairs under the enforcement order.”*

7. Taking a pragmatic approach and being satisfied that there was no one residing at the property who could be prejudiced by any further delay, the Tribunal allowed the new owners to address the repairs required by the RSEO.

8. By letter dated 5<sup>th</sup> May 2017 from Messrs James Turnbull and company solicitors, acting on behalf of Bruno and Gabriella Minchella, a request was received by the Tribunal for a re-inspection of the property.
9. On 23<sup>rd</sup> June 2017 the property was re-inspected by the surveyor member to ascertain whether the works required by the RSEO had been completed.
10. In attendance at the inspection was the new owner, Bruno Minchella.
11. Following his inspection, the surveyor noted his findings and conclusions in a re-inspection report dated, 27<sup>th</sup> June 2017, a copy of which is attached.
12. Reference is made to the content of the surveyor's report, specifically,

*“The roof void was inspected and it appeared that extract fans were ducted toward the eaves, the presence of “re-circulating equipment” as installed by Wise Property Care was noted. Readings were taken with an electronic moisture meter, from all areas where condensation issues had previously been apparent, surfaces appeared to be dry and readings were within acceptable parameters, with no indication of condensation at time of inspection. Trickle vents had been installed to windows throughout the property. A more detailed report by the original specialist contractor Wise Property Care has never been produced by the previous Landlord. It was evident from inspection that extensive work had been undertaken by the current owner, including replacement or renewal of fixtures, fittings and finishes extensively.”*

13. A copy of the surveyor's report was intimated to Mr Minchella. There has been no response to the report of 27<sup>th</sup> June 2017.

## **Findings of the Tribunal**

14. That a detailed, specialist report revealing the extent of the issue of condensation within the property; the cause of condensation and recommendations on which works are required to remedy the problem of condensation all as required at section (i) of the RSEO has never been produced.
15. That no report had ever been produced to the Tribunal in terms of section (ii) of the RSEO.
16. That the works which had been undertaken by Mr Minchella, although not undertaken in keeping with the timescales of the RSEO at section (iv), satisfied the terms of section (iii) of the RSEO.
17. That there was no evidence of condensation at the property at the time of the inspection by the surveyor on 27<sup>th</sup> June 2017.

## **Reason for decision**

18. Having been satisfied that the works undertaken by the new owner rendered the property free of condensation, the Tribunal was satisfied that the terms of RSEO had been met. The Tribunal resolved to issue a Certificate of Completion.

## **Appeal provisions**

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.

S Sweeney

Chairing legal member of the Tribunal, 23rd October 2017.