

Housing and Property Chamber
First-tier Tribunal for Scotland



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

CERTIFICATE OF COMPLETION under section 60 of the Housing (Scotland) Act 2006

Chamber Reference PRHP/RP/16/0226

Property at 166 Cairngorm Drive, Aberdeen, AB12 5PL being the subjects registered in the Land Register of Scotland under Title Number KNC7895 (“the Property”)

The Parties:-

Mr Trevor Donaldson, residing at 166 Cairngorm Drive, Aberdeen, AB12 5PL (“the Tenant”)

Mr Mohammed Mehrabadi and Mrs Lynne Mehrabadi, both residing at 374 Great Western Road, Aberdeen (“the Landlords”)

The Tribunal comprised of:-

Mrs Ruth O’Hare – Legal Member

Mr Colin Hepburn – 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 house dated 14 September 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 typewritten are executed by Ruth O'Hare, Legal Member of the Tribunal at Aberdeen on 4 June 2018 before this witness:-
R O'Hare

A Overton

Witness

Legal Member

Ann Overton, c/o Aberdeenshire Council,
Woodhill House, Westburn Road, Aberdeen

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision under sections 27(4) and 60 of the Housing (Scotland) Act 2006

Chamber Reference PRHP/RP/16/0226

Property at 166 Cairngorm Drive, Aberdeen, AB12 5PL (“the Property”)

The Parties:-

Mr Trevor Donaldson, residing at 166 Cairngorm Drive, Aberdeen, AB12 5PL (“the Tenant”)

Mr Mohammed Mehrabadi and Mrs Lynne Mehrabadi, both residing at 374 Great Western Road, Aberdeen (“the Landlords”)

The Tribunal comprised of:-

**Mrs Ruth O’Hare – Legal Member
Mr Colin Hepburn – Ordinary Member**

Background

1. Reference is made to the decision of the Private Rented Housing Committee dated 14 September 2016 which determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act in that he had failed to ensure the property met the Repairing Standard. On the same date the Committee imposed a Repairing Standard Enforcement Order (“RSEO”) which required the Landlord to:-
 - a. Instruct a professional window installer to carry out a full inspection of the windows in the kitchen and kitchen extension and carry out any works identified to ensure the property is wind, watertight and in a reasonable state of repair;
 - b. Repair or replace the window blind in the living room;
 - c. Repair the gas fire in the living room to ensure it is in proper working order and approved by a GasSafe registered engineer or alternatively remove the gas fire, seal the flue and make good decoration;
 - d. Repair or replace the pane of glass with the defective vent in the living room window;

- e. Instruct a qualified plumber to check the pipework and correct fall on the waste pipe to the bath to allow the pipes to properly drain;
- f. Repair or replace the sealant around the bath;
- g. Install a proper mechanical ventilation system in the bathroom;
- h. Repair or replace the defective kitchen fittings and units as necessary;
- i. Repair or replace the door entry system to ensure it is in proper working order;
- j. Repair the television aerial to ensure proper signal;
- k. Install smoke and heat detectors in the property in compliance with current standards;
- l. Carry out such works as are required to clear moss from the roof of the property and all detritus from the gutters pertaining to the property;
- m. Carry out portable appliance testing on all appliances provided by the landlord to include all those present in the property at the commencement of the tenancy;
- n. Carry out all works required to make good decoration in the property following the above works.

The order required that the works be carried out within a period of twelve weeks from the date of the order.

- 2. The Tribunal took over the jurisdiction of the matter on 1st December 2016.
- 3. Reference is made to the decision of the Committee dated 14 November 2016 which determined that the Landlord had failed to comply with the RSEO and that a Rent Relief Order be issued.
- 4. On 1st December 2016, jurisdiction in respect of the application passed to the Tribunal.
- 5. Reference is further made to the decision of the First-tier Tribunal (Housing and Property Chamber) ("the Tribunal") dated 19 April 2017 which varied the order to extend the period for completion of the works by a period of six weeks in view of the reasonable steps taken by the Landlord in carrying out the works required.

Minute of Adjournment

- 6. On 20 June 2017 the Ordinary Member carried out a re-inspection of the Property. The report of the re-inspection confirmed there to be two outstanding items under the RSEO, namely the gas fire and the mechanical ventilation system in the bathroom.

7. The Tribunal held a hearing on 4th January 2018. Both parties were present. The Tenant confirmed that the issues with the gas fire and mechanical ventilation system in the bathroom had been resolved however there was now a problem with the window in the kitchen which was causing damp and condensation in the house. The Tenant had also submitted emails to the Tribunal to a defunct email address in error which had not been received.
8. By Minute of Adjournment dated 29 January 2018 the Tribunal adjourned the hearing in order to obtain further information from the Landlord regarding the window in the kitchen and to receive the documentation the Tenant had submitted in error. The Tribunal considered it required the information in order to make a fair determination of the matter.

Re-inspection and Hearing

9. On 9 May 2018 the Tribunal carried out a re-inspection of the Property. The Tenant and the Landlord were both present.
10. It was noted that new windows had been installed in the kitchen of the house. There was some redecoration required. The Tribunal further noted a new kitchen worktop had been installed and required some further work in order to seal the gap between the worktop and the kitchen splashback. During the inspection the Tenant advised that the gas boiler was not working properly and the pressure kept dropping. The Tribunal could find no evidence of this during the confines of the inspection.
11. The Tenant indicated at the re-inspection that the toilet was leaking. Upon testing the Ordinary Member could find no evidence of a leak.
12. The Tribunal also examined the roof and gutters and noted that moss and detritus were again present following clearance works by the Landlord the year before.
13. Following the hearing the Tribunal held a hearing at the Ferryhill Community Centre, Aberdeen. The Landlord and the Tenant were both present. The submissions to the Tribunal are summarised as follows:-
 - a. With regard to the windows in the kitchen, the Tenant confirmed these had been replaced and were in a reasonable state of repair. There was however some redecoration required. The Tenant further advised that the kitchen splashback required to be replaced following the installation of a new worktop. The Landlord confirmed that he would carry out any redecoration required and could complete the works required to the splashback.
 - b. The Tenant advised that the gas boiler in the property was not functioning properly in his view. A gas safe engineer had been out to test it and had said that it was not working as it should. The Tenant further advised that he had some concerns regarding works that had been carried out to fix a leak from the toilet and he didn't think this had been done properly by the Landlord.

- c. There was discussion regarding the communal gutters which had formed part of the original works required by the RSEO. It was accepted by the Tenant that works had been done to clear the gutters by the Landlord however the problem had reoccurred. There were issues with a neighbour who was obstructive and refused to cooperate with the ongoing maintenance of the roof.

Decision

14. The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') unanimously determined that the works required by the Repairing Standard Enforcement Order ("RSEO") had been completed and resolved to issue a Certificate of Completion of Work.

Reasons for the decision

15. The Tribunal was satisfied having regard to the findings of the re-inspection and the representations and submissions from both the Tenant and the Landlord that it had sufficient information upon which to make a determination of the application.
16. The Tribunal was conscious that there were two matters outstanding from the original RSEO, namely the redecoration to the area pertaining to the kitchen window and the splashback pertaining to the kitchen worktop. However it was clear that the majority of the works had been carried out and the Tribunal considered those matters outstanding were of a minor nature. The Tribunal therefore considered it would be disproportionate to vary the order solely for these two matters which in the view of the Tribunal did not in themselves amount to a breach of the Repairing Standard. The Landlord had indicated a willingness to attend to the works required and the Tribunal had no reason to doubt his intention in this regard given the works carried out to date. The Tribunal would expect the Landlord to attend to these matters timeously and that both parties will continue to cooperate going forward to ensure that repairs are carried out as required.
17. The Tribunal further noted that ongoing maintenance would be required to clear the moss and the detritus from the gutters which had reoccurred following previous action by the Landlord. However the Tribunal was satisfied that the original RSEO in this regard had been complied with. The Tribunal noted the problems caused by one of the neighbours in the block who was refusing to cooperate in arranging any communal maintenance and that this had hindered the Landlord's efforts however he had indicated a willingness to seek advice to resolve the issue. The Tribunal would expect the Landlord to continue his efforts in ensuring the gutters are kept clear, whether by arranging the work himself or taking such steps as are necessary to enforce any communal maintenance rights.
18. Finally the Tenant had raised issues with the bathroom and the gas boiler. The Tribunal was unable to find evidence of disrepair in respect of either and in any

event neither had been part of the original application. Accordingly the Tribunal would be unable to consider these matters as part of the application before it.

19. The Tribunal therefore determined that the Landlord had complied with the RSEO for the above reasons.

20. The decision of the Tribunal was unanimous.

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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.

R O'Hare

Signed

Ruth O'Hare
Chairperson

4 June 2018

This is the Schedule of Photographs referred to in the decision of the Tribunal dated 4 June 2018.
R O'Hare

Schedule of photographs taken during the inspection of:

166 Cairngorm Drive, Aberdeen

By: Colin F Hepburn MRICS, Ordinary Member of the First-Tier Tribunal for
Scotland(Housing and Property Chamber) on the 9th May 2018

Ref: PRHP/RP/16/0226









