

Housing and Property Chamber First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”)

Certificate of Completion of work under section 60 (5) (b) of the Housing (Scotland) Act 2006 (“the Act”)

Chamber Reference number: FTS/HPC/RT/18/2245

Title number: DMF19962

Re: Property at 30 Well Street, Moffat, DG10 9DP (“the property”)

The Parties:

Mr Ryan Bothwick (“the tenant”)

Mrs Rebecca Horn, 13 Castlegate, Penrith, CA11 7HZ (“the landlord”)

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD (“the Third Party Applicant”)

The Tribunal members: Simone Sweeney (legal chairing member) and Geraldine Wooley (ordinary surveyor member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) hereby certifies that the work required by the Repairing Standard Enforcement Order relative to the property dated 13th March 2019 has been completed. Accordingly the said Repairing Standard Enforcement Order is discharged.

Appeals

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 on which the decision was intimated 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.

S Sweeney

Simone Sweeney, Legal Chairing Member, 14th October 2019

Housing and Property Chamber First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”)

Statement of reasons for issuing a Certificate of Completion of work under section 60 of the Housing (Scotland) Act 2006 (“the Act”).

Chamber Reference number: FTS/HPC/RT/18/2245

Title number: DMF19962

Re: Property at 30 Well Street, Moffat, DG10 9DP (“the property”)

The Parties:

Mr Ryan Bothwick (“the tenant”)

Mrs Rebecca Horn, 13 Castlegate, Penrith, CA11 7HZ (“the landlord”)

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD (“the Third Party Applicant”)

The Tribunal members: Simone Sweeney (legal chairing member) and Geraldine Wooley (ordinary surveyor member)

Decision of the Tribunal Chamber

1. The Tribunal determined that the landlord has complied with the full terms of the Repairing Standard Enforcement Order (“RSEO”) of 13th March 2019.
2. The Tribunal is satisfied that the RSEO be revoked.
3. The decision of the Tribunal is unanimous.

Background

4. Reference is made to the decision of the Tribunal of 13th March 2019 in which the Tribunal determined that the landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act and issued an RSEO.

5. The RSEO required that:

1. *To produce a valid Electrical Installation Condition Report ("EICR") by a contractor approved by NICEIC or Select which confirms that:*

- *The electrical installation throughout the property is satisfactory.*
- *There are no items listed as C1 or C2.*
- *An interconnected smoke and heat alarm system is installed in accordance with current regulations, has been tested and confirmed to be in working order.*

2. *To produce a valid Gas Safety record from a Gas Safe registered engineer which confirms that:*

- *All necessary repairs have been completed to the gas boiler.*
- *The gas boiler has been tested and is in full working order.*
- *The gas boiler provides adequate central heating and hot water at the property.*
- *All gas appliances have been tested and confirmed to be in working order.*
- *Carbon monoxide detectors are fitted within the proximity of the boiler and the gas hob.*
- *The carbon monoxide detectors are fitted in accordance with current regulations.*

3. *To produce evidence that Portable Appliance Tests (PAT) have been undertaken to all electrical appliances (where appropriate) throughout the property.*

4. *To produce evidence of a Portable Appliance Test (PAT) having been undertaken to the dishwasher.*

6. An inspection of the property was undertaken by the surveyor member of the Tribunal on 16th May 2019. Reference is made to the content of the surveyor's report of 16th May 2019 and the outstanding works identified therein.

7. On 21st August 2019 a further re-inspection of the property was carried out by the surveyor member of the Tribunal. Reference is made to the content of the re-inspection report of 21st August 2019.

8. In respect of section 1 of the RSEO (the electrical supply at the property) the surveyor member noted that an EICR had been produced dated February 2019 which recorded the electrical installation at the property to be satisfactory. There were no C1 or C2 items reported on the EICR. However the EICR identified that the immersion heater was faulty.

9. The surveyor identified that new smoke alarms had been fitted in the living room and within the lobby. In her re-inspection report of 16th May 2019 it had been identified that new smoke alarms had been fitted in the hallway and kitchen. The Tribunal was satisfied that the landlord had complied with section 1 of the RSEO (the electrical supply at the property).

10. In respect of section 1 of the RSEO (the gas supply to the property) the surveyor noted that the landlord had produced a Gas safety certificate from Greenfield Heat and Power. This certificate confirmed that gas appliances had been tested and were found to be in working order. The certificate is valid until 27th June 2020.

11. During her re-inspection of 21st August 2019, the surveyor observed that the gas boiler had undergone repair and was in working order providing hot water to the property and heating the radiators.

12. The surveyor also identified that carbon monoxide detectors had been fitted on the ceiling above the gas fire in the living room and on the ceiling within the proximity of the boiler. The Tribunal was satisfied that the landlord had complied with section 2 of the RSEO (the gas supply at the property).

13. At the date of the re-inspection on 21st August 2019 no evidence was available before the Tribunal that Portable Appliance Tests (PAT) had been carried out to all electrical appliances throughout the property (where appropriate) including the dishwasher.

14. The re-inspection report of 21st August 2019 was issued to parties on 4th September 2019 and parties were invited to make any relevant submissions to the Tribunal in response.

15. There was no response to the re-inspection report from the third party.

16. By email of 15th September 2019 the landlord contacted the Tribunal and stated,

“Here are the PAT tests and the Invoice for 30 Well Street, Moffat. The Dishwasher and Hob have both been tested and passed.”

17. Attached to the email were photographs showing an oven hob and dishwasher with “PASSED” stickers applied bearing the date “09/19” and indicating, “Next test 09/20.” Two further documents were attached to the email but some of the information was obscured. The landlord was requested to provide clear copies of the documents.

18. By email of 18th September 2019 the landlord stated,

“Here is the paper copy of the PAT certificate I received in the post this morning for 30 Well Street.”

19. Attached to the email were two documents. The first was from S & R Fire Protection Limited bearing the title, “Certificate of Inspection.” The document read, “1 PAT TEST 2 items.” The second document had the title, “Concise Asset List.” It recorded the property address, listed the cooker and dishwasher and provided, “Test Status: Pass. No fails.”

19. The Tribunal was satisfied that these documents provided evidence that the landlord had undertaken PAT tests to the cooker and dishwasher. Accordingly the Tribunal determined that the landlord had satisfied sections 3 and 4 of the RSEO.

Reasons for decision

20. Having considered the findings of the surveyor member’s re-inspection of 21st August 2019 together with the documentation produced, the Tribunal determined that all works required by the RSEO have been completed, that the property now meets the Repairing standard and that it is appropriate to issue a Certificate of Completion in terms of Section 60 of the Act.

Appeals

21. 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 on which the decision was intimated to them.

22. 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

Simone Sweeney, Legal Chairing Member, 30th October 2019