

**Housing and Property Chamber  
First-tier Tribunal for Scotland**



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

**Certificate of Completion of Work under Section 60 of the Housing (Scotland) Act 2006 as amended ("the Act")**

**Chamber Ref: FTS/HPC/RP/18/2866**

**Title Number: AYR53286**

**39 Girdle Toll, Irvine, KA11 1AP ("The Property")**

**The Parties: -**

**Dorothy Yost, formerly residing at 39 Girdle Toll, Irvine, KA11 1AP ("the former Tenant")**

**James Agnew, 7 Glenlyon Grove, Stanecastle, Irvine, KA11 1RN ("the Landlord")**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') hereby certifies that the work required by the **Repairing Standard Enforcement Order ("RSEO")** relative to the Property dated 25 January 2019 has been completed. Accordingly, the said RSEO 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.**

In terms of Section 63 of the Act, 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 Josephine Bonnar, legal member of the Tribunal, at Motherwell on 23 June 2019 in the presence of the undernoted witness: -

G Bonnar

J Bonnar

\_\_\_\_\_  
Gerard Bonnar  
1 Carlton Place, Glasgow

witness

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# Housing and Property Chamber First-tier Tribunal for Scotland

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**Statement of Decision: Housing (Scotland) Act 2006 Section 60**

**Chamber Ref: FTS/HPC/RP/18/2866**

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**The Parties: -**

**Dorothy Yost, formerly residing at 39 Girdle Toll, Irvine, KA11 1AP ("the former Tenant")**

**James Agnew, 7 Glenlyon Grove, Stanecastle, Irvine, KA11 1RN ("the Landlord")**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order (RSEO) relative to the property dated 25 January 2019 determined that the Landlord has complied with the RSEO and that a Certificate of Completion to that effect should be issued.**

**The Tribunal comprised: -**

**Mrs Josephine Bonnar, Legal Member**

**Mr Donald Wooley, Ordinary Member**

## Background

1. By application dated 22 October 2018 the former Tenant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) 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 states that the former Tenant considers that the Landlord has failed to comply with his duty to ensure that the house meets the repairing standard. The former Tenant states that the Landlord has failed to ensure that (i) The house is wind and watertight and in all other respects reasonably fit for human habitation. Specifically, the former Tenant complains that there are several areas of dampness throughout the flat which the former Tenant believes to be rising damp.
3. Following receipt of the application the Tribunal was notified that the former tenant had vacated the property and that the tenancy had come to an end. By Minute of Continuation dated 22 November 2018 a Convener with delegated powers decided that the Tribunal would continue to determine the application.
4. The First-tier Tribunal for Scotland served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord on 30 November 2018. The Landlord was notified that an inspection would take place on 11 January 2019 at 10am and that a hearing would take place on 11 January 2019 at 11.30am at Troon Town Hall, Municipal Buildings, South Beach, Troon.
5. The Tribunal inspected the property on the morning of 11 January 2019. The Landlord, Mr Agnew attended accompanied by Meaghan McDiarmid of Hovepark Letting Agents. Thereafter the Tribunal held a hearing at Troon Town Hall, Municipal Buildings, South Beach, Troon. Both Mr Agnew and Ms McDiarmid attended and gave evidence.
6. Following the hearing the Tribunal proceeded to issue a Repairing Standard Enforcement Order ("RSEO") in relation to the property. In terms of the RSEO the Landlord is required to instruct a suitably qualified damp specialist to prepare a detailed survey of the property, to identify the cause and full extent of the dampness, damp staining and any remedial action. Thereafter to carry out all recommended repairs to remedy the dampness and any associated defects, and any resultant decoration made good. The work was to be completed within 6 weeks of service of the RSEO.

7. The RSEO was served on the Landlord. On 15 February 2019 a damp specialist report dated 29 November 2018, invoice and guarantee dated 13 February 2019 from Kerelaw Building Preservation were forwarded to the Tribunal. These highlighted a number of damp issues within the property which had been addressed.
8. The Ordinary Member of the Tribunal re-inspected the property on 20 March 2019. The Landlord was present together with Ms McDiarmid of Hovepark Lettings. The Ordinary Member noted that areas identified in the Kerelaw report have been repaired, a ~~chemical damp proof course inserted, relined with plasterboard~~ finish and redecorated to a good standard. In addition, in the hall, the mutual wall with the living room has had a partial damp proof course and the plasterboard outside the bathroom renewed. Positive moisture readings were still detected in the walk-in kitchen cupboard and kitchen wall to the right of the rear door leading to the garden. Furthermore, the untreated section of wall in the hall to the right of the living room door remains damp with positive moisture readings being obtained. A report on the re-inspection was issued to the Landlord.
9. On 10 June 2019 the Landlord submitted a further report from Kerelaw Building Preservation. The report relates to a survey of the property with particular reference to the "rear kitchen adjacent to door, kitchen cupboard and rear hallway". The report indicates that meter readings in relation to the wall to the right of the door are within normal levels. Some condensation was noted but no rising or penetrating damp, so no treatment required. It was noted that a leak from the shower had previously saturated the kitchen cupboard and the presence of crystallised salts was an indication that the drying process is ongoing. The report recommends only that the salts be brushed off and the area re-painted with a sealant or blocker used prior to painting. The report goes on to state that the high meter readings in the hall appear to be false readings caused by the presence of migrating salts following repainting with water based emulsion. Again, this is indicative of the drying process and no treatment is recommended. The report concludes by saying that a period of 12 months should be allowed for salts to settle and walls to fully dry.

## Reason for decision

10. The Tribunal considered the condition of the property at re-inspection together with the reports and other documents submitted by the Landlord from Kerelaw Building Preservation. The Tribunal noted that the majority of the work required by the RSEO had been completed by the date of the re-inspection on 20 March 2019. Some concerns remained in relation to three areas within the property where high moisture levels were still noted. The survey report dated 10 June 2019 addresses those concerns and confirms that no further remedial work is required at the property at the present time.
11. The Tribunal accordingly concludes that the work required in terms of the RSEO has been carried out and that a certificate of Completion should be issued.

## Decision

12. The Tribunal determined that the Landlord has complied with the RSEO and that a Certificate of Completion should be issued.
13. The decision of the Tribunal is unanimous.

## Right of Appeal.

**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.**

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J Bonnar

Signed...  ..... 23 June 2019

Josephine Bonnar, Legal Member