

Housing and Property Chamber First-tier Tribunal for Scotland



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

**Statement of Decision under section 26(1) of the Housing (Scotland) Act 2006
as amended (“the Act”)**

Chamber Ref: FTS/HPC/RP/17/0394

Title no: ANG58388

Flat 2R (2F) 33 Arklay Street, Dundee DD3 7LJ (“The House”)

The Parties:-

- **Mr Paul Goodman, Rent Locally, Lindsay Court, Gemini Crescent,
Dundee DD2 1SW (“the Landlord”)**

The Tribunal comprised:-

Ms Gabrielle Miller - Legal Member
Ms Debbie Scott - Ordinary Member

1. **The First Tier Tribunal for Scotland (Housing & Property Chamber) (“the Tribunal”), having made such enquiries as was appropriate for determining whether the Landlord had complied with the Repairing Standard Enforcement Order (“RSEO”) in relation to the Property concerned and taking account of the subsequent re-inspection of the Property, determined that the Landlord had now complied with the terms of the RSEO and resolved to issue a Certificate of Completion in respect of the works required by the RSEO**

Statement of Reasons

2. Reference is made to the Determination of the Tribunal dated 1st June 2017 which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act and to the RSEO made by the Tribunal which required the Landlord to carry out works to ensure that the house meets the repairing standard.

3. The Tribunal required the Landlord to carry out such work as is necessary for the purpose of ensuring that the Property concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of the Order is made good.
4. In particular, the Tribunal required the Landlord: -
 - a. To replace the boiler with a new boiler and ensure that the new boiler is fully working with all the appropriate certification.
 - b. To instruct a plumber to investigate reason for the water not mixing in the shower and for that fault then to be fixed to ensure that the shower is in proper working order.
 - c. To replace and make good the tiles on the bathroom wall which are broken with sharp edges located between the bath and the sink.
5. The said works were to be carried out and completed within a period of 3 months from the date of the service of the Order.
6. On 1st October 2018, the Ordinary Member (Surveyor) of the Tribunal carried out an inspection of the Property and noted: -
 - a. A new gas boiler has been installed. The landlord presented a certificate regarding the installation of the new boiler. The tenant stated that the boiler is operational and in working order. At the date of the inspection it was noted that a new Worcester Gas Central Heating boiler had been installed. The Boiler is located in the kitchen cupboard. See below photograph schedule. A Domestic Landlord Gas Safety Record was presented by the Landlord. This was dated the 25th September 2018. The writing is illegible due to photocopy being presented. A clear copy is required to establish the full details.
 - b. The Tenant confirmed that the shower and mixing tap within the bathroom is operational and in proper working order. This became operational when the new Gas Central Heating boiler was installed.
 - c. The tiles in the bathroom have not been repaired. The Landlord stated that they have been unable to gain access to undertake this repair. The tenant refuted these claims. The Landlord's contractor had tried to gain access on the date of the re-inspection to repair the tiles. The tenant stated this was not enough of a notice period. It was agreed at the re-inspection that the Tenant would allow access with keys to repair the tiling.
7. The Ordinary Member's inspection report with her findings was circulated to the parties and written submissions were invited. The Tenant sent in a response dated 31st October 2018 stating that she agreed with the inspection

report and that since the inspection, the bathroom tiles have been fixed but that the other repairs noted in the observed section of the decision have not been carried out. The Landlord sent in a response dated 5th November 2018 stating that he agreed with the inspection report and advised of the reason of the delay in the repairs being carried out.

8. On inspection of the Gas Safety Certificate it was seen that the certification had not been undertaken by a recognised person on the appropriate register. The Landlord was written on several occasions to ask that the Certificate be completed by a recognised person. In June 2019, the Landlord finally forwarded an appropriate certificate dated 6th March 2019. The Tribunal were then satisfied that all the works within the RSEO had been completed.
9. The Tenant left the Property on 10th June 2019.

10. **Decision**

There were matters that had been observed in the Decision of 1st June 2018 which did not form part of the RSEO and not a matter for the Tribunal to enforce. The Tribunal considers the works specified in the RSEO have been substantially completed and have decided that it is appropriate to issue a Certificate of Completion in terms of Section 60 of the Act. The Tribunal members were unanimous in their decision.

Rights of Appeal

11. **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.**

12. **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.**

G Miller

Chairing Legal Member of the Tribunal

Dated:

5 Sept 19