

# Housing and Property Chamber First-tier Tribunal for Scotland

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

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

**Chamber Ref: FTS/HPC/RP/17/0400**

**Title no: AYR 34841**

**41D Glebe Road, Kilmarnock, KA1 3DJ ("The Property")**

**The Parties: -**

**David Hunter, 41D Glebe Road, Kilmarnock, KA1 3DJ ("the former Tenant")**

**Robert Bould, Meikle Carleith, Galston, KA4 8NW ("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 23 January 2018 determined that the Landlord has complied with the Order 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 received on 30 October 2017 the 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 stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard. The Tenant stated that the Landlord had failed to ensure that (i) The house is wind and watertight and in all other respects reasonably fit for human habitation, (ii) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order, and (iii) Any fixtures, fittings and appliances supplied by the Landlord under the tenancy are in a reasonable state of repair and in proper working order. Specifically, the Tenant stated that there is dampness in the bedroom, that the windows are not watertight, that the washing machine is broken and that there is no ventilation in the bathroom or kitchen.
3. The First-tier Tribunal for Scotland served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant on 22 November 2017. The parties were notified that an inspection and hearing would take place on 12 January 2017.
4. The Tribunal inspected the property on the morning of 12 January 2018. Thereafter a hearing took place at North West Kilmarnock Area Centre, Western Road, Kilmarnock.
5. Following the inspection and hearing the Tribunal proceeded to issue a RSEO in relation to the property. In terms of the RSEO the Landlord is required, (i) to instruct a suitably qualified timber damp specialist and building contractor to prepare a detailed survey of the property, with specific reference to the rear facing accommodation, to identify the cause and full extent of the dampness, damp staining and any remedial action. The report should include both the internal and external fabric of the building, specifically around the affected areas. Thereafter to carry out all recommended repairs to remedy the dampness and any associated defects, and any resultant decoration made good, and (ii) to repair the defective bathroom window, or to replace the window. The work was to be completed

within 6 weeks of the RSEO being issued to the parties.

6. On 12 January 2018 the Tenant notified the Tribunal that he had now vacated the property.
7. On 5 March 2018 the Landlord's wife emailed the Tribunal to advise that the work was unlikely to be completed within the specified 6 week period, as a result of adverse weather conditions. She referred to a specialist survey report having been carried out. She advised that further information regarding the progress of the work would be submitted in due course. On 29 March 2018 the letting agent for the property notified the Tribunal that the work was now complete and that the property was being decorated. The Landlord submitted a quotation from Stuart Docherty Roofing dated 22 February 2018 for roof repair work, an invoice from the same contractor dated 6 March 2018, an invoice from JK Construction (Builders) Ltd dated 7 March 2018 for brickwork repairs and the installation of a dehumidifier, and an invoice from Euan Hart, joiner dated 14 March 2018 for new kitchen units, re-plastering in the rear bedroom and damp prevention works.
8. The Ordinary Member of the Tribunal re-inspected the property on 17 April 2018. Access was provided by the Landlord's wife, Jane Bould. The Ordinary Member noted that general repairs have been carried out to the brickwork/masonry around the windows on the back wall. Also, that the bathroom window has been removed and renewed with a modern double glazed unit which is fully functional. Also noted was that damp staining on the inner face of the outer wall adjacent to the wc is no longer visible and moisture readings at this area have reduced. The rear wall of the bedroom has been strapped and relined in plasterboard and redecorated. No evidence of staining on either the rear or internal walls was noted, and moisture readings taken did not indicate damp of any significance. The Ordinary Member also noted that an additional ventilator has been fitted in the rear wall of the bedroom and that the room has been re-decorated. A report on the re-inspection concluded that the work required by the RSEO appears to have been completed although the damp specialist report referred to in correspondence had not been exhibited to the Tribunal.
9. The re-inspection report was issued to the Landlord on 25 April 2018. In response the Landlord lodged with the Tribunal a report from Rowallan Specialist Surveys dated 20 February 2018 and a condensation information sheet. The report indicates that the property was inspected, and certain works recommended. These include - inspection and repair to roof coverings, remedial work to

defective pointing and spalling brickwork, installation of a passive de-humidifier vent. Also recommended is the stripping out and removal of wall linings to rear elevation wall and left hand wall back to chimney breast, wall strapping to be replaced in new treated timbers and wall linings disturbed reinstated with insulated plasterboard. On 4 May 2018 the Landlord also confirmed that he agreed with the findings of the Tribunal's re-inspection report.

### **Reason for decision**

10. The Tribunal considered whether the work stipulated in the RSEO has been satisfactorily completed
11. The Tribunal considered the terms of the Rowallan report of 20 February 2018, exhibited by the Landlord, and the various contractors' invoices also submitted. The Tribunal is of the view that these documents establish that work recommended in the Rowallan specialist survey and required by the RSEO has been carried out. The Tribunal also considered the condition of the property at the time of the re-inspection and documented in the re-inspection report. This also supports the conclusion that the work required by the RSEO has been completed.
12. The Tribunal accordingly concludes that the work required in terms of the RSEO has been carried out and that a certificate of completion to that effect should be issued.

### **Decision**

13. The Tribunal determined that the Landlord had complied with the RSEO and that a certificate of completion should be issued.
14. 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.**

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.

Josephine Bonnar

Signed...

..... 15 May 2018

Josephine Bonnar, Legal Member