

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/18/0675

Title no: STG61542

**House at Wallace View, Ferry Road, South Alloa, Falkirk, FK7 7LF
("The Property")**

The Parties:-

**Mr William Harland, Wallace View, Ferry Road, South Alloa, Falkirk, FK7 7LF
("the Tenant")**

**Mr Archibald Tannock & Mrs Jacqueline Tannock, 48 Gartmore Road, Paisley, PA1 3NQ
("the Landlords")**

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 5 June 2018 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/

having effect from the day on which the appeal is abandoned or so determined.

In Witness Whereof these presents type written on this and the preceding page are executed by Gillian Coutts Buchanan, Legal Member of the Tribunal, at Dundee on the 12 November 2019 in the presence of the undernoted witness:-

J Lynch

G Buchanan

J Lynch _____ witness

 _____ Legal member

_____ name in full

THORNTONS LAW LLP
WHITEHALL HOUSE address
33 YEAMAN SHORE
DUNDEE

_____ DDI 4BJ

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006, Section 60

Chamber Ref: FTS/HPC/RP/18/0675

Title no: STG61542

**House at Wallace View, Ferry Road, South Alloa, Falkirk, FK7 7LF
("The Property")**

The Parties:-

**Mr William Harland, Wallace View, Ferry Road, South Alloa, Falkirk, FK7 7LF
("the Tenant")**

**Mr Archibald Tannock & Mrs Jacqueline Tannock, 56 Victoria Road, Paisley, PA2 9PT
("the Landlords")**

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") in relation to the Property, and taking account the documentation submitted to the tribunal and the submissions of the Landlords, determined that the Landlords have 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.

Background

1. Reference is made to the determination of the tribunal dated 5 June 2018 which determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that they had failed to ensure that the Property met the repairing standard. The works required by the RSEO were: -
 - (a) (i) Engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and report on the safety, suitability and effectiveness of the boiler.
 - (ii) Follow the recommendations of the report referred to in paragraph (a)(i) above to ensure that the boiler is safe and in proper working order.
 - (iii) To produce to the tribunal a valid Gas Safety Certificate.
- (b) (i) To repair or replace the ceiling light fitting in the hall, the spotlights in the unused

bedroom accessed from the utility room, the extractor fan and the ceiling spotlights in the bathroom, and to make safe the cabling serving the former wall lights located in the lounge.

- (ii) To engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the electrical installations of the Property, and thereafter follow the recommendations of that report to ensure that the entire system is safe and in proper working order.
- (iii) On completion of the works referred to in paragraph (b)(i) and (ii) above to provide to the tribunal a copy of the EICR.
- (c) To carry out any and all making good and decoration associated with the foregoing works.
- (d) To instruct a reputable contractor to carry out an investigation of and prepare a report on the septic tank and all associated underground pipework, to identify the reasons for the septic tank not operating correctly and to repair or replace the septic tank and any associated underground pipework to ensure the septic tank and the associated underground pipework is in a reasonable state of repair and in proper working order and to make safe the hole in the lawn to the rear of and make good any other damage caused to the Property.

The RSEO gave the Landlord 4 weeks to carry out the works.

2. On 7 August 2018 the Ordinary (Surveyor) Member of the tribunal, Mr Nick Allan re-inspected the Property on behalf of the tribunal. The Tenant was present along with his wife, Mrs Catherine Harland. The Landlords were neither present nor represented.
3. The re-inspection revealed that the following works required in terms of the RSEO had been carried out.
 - (a) The ceiling light fitting in the hall had been replaced. However, when switched on the light caused the RCD unit on the switchboard to trip off all power within the Property.
 - (b) The tenant confirmed the spotlights in the unused bedroom accessed from the utility room were now in working order.
 - (c) The extractor fan and the ceiling spotlights in the bathroom have been replaced and are now in working order.
 - (d) The exposed cabling previously serving the former wall lights located in the lounge has been removed.
4. The re-inspection revealed the following works remained outstanding:-
 - (a) (i) Engage a suitably qualified and Gas Safe registered heating engineer to carry out an inspection and report on the safety, suitability and effectiveness of the boiler.
 - (ii) Follow the recommendations of the report referred to in paragraph (a)(i) above to ensure that the boiler is safe and in proper working order.

- (iii) To produce to the tribunal a valid Gas Safety Certificate.
- (b) To engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the electrical installations of the Property, and thereafter follow the recommendations of that report to ensure that the entire system is safe and in proper working order and on completion of the works referred to provide to the tribunal a copy of the EICR.
- (c) To carry out any and all making good and decoration associated with the works required in terms of the RSEO.
- (d) To instruct a reputable contractor to carry out an investigation of and prepare a report on the septic tank and all associated underground pipework, to identify the reasons for the septic tank not operating correctly and to repair or replace the septic tank and any associated underground pipework to ensure the septic tank and the associated underground pipework is in a reasonable state of repair and in proper working order and to make safe the hole in the lawn to the rear of and make good any other damage caused to the Property.
5. On 20 December 2018 the tribunal issued a determination that the Landlords had failed to comply with the RSEO and made a Rent Relief Order.
6. By email dated 21 January 2019, the Tenant confirmed having vacated the Property.
7. By email dated 12 February 2019, Kevin Valentine of Martin & Co Stirling ("the Letting Agents"), letting agents employed by the Landlords, sent to the tribunal the following:-
- (a) Energy Performance Certificate dated 24 June 2018;
 - (b) Landlord Gas Safety record dated 5 June 2018;
 - (c) Portable Appliance Testing Certificate dated 9 January 2019;
 - (d) Invoice from NGA Electrical Limited dated 8 January 2019 relative to fixing the hallway lighting;
 - (e) Legionella Scotland Assessment dated 2 May 2015; and
 - (f) Undated Electrical Installation Condition Report.

The Letting Agent advised that the Tenant had vacated the Property and a new tenant had moved in. The Letting Agent also advised the tribunal that the Environmental Health department of the local authority had organised an excavation in the neighbouring garden which solved the issue relative to the septic tank which had not recurred.

8. By email dated 18 February 2019, the tribunal was advised by Kate Smith, Private Sector Officer, Falkirk Council that the Tenant had vacated the Property which had been re-let.
9. By email dated 28 February 2019, Kate Smith advised that it did not have details of the new tenant in the Property.
10. On 12 March 2019, the Letting Agents emailed the tribunal with a copy of a letter from Falkirk Council dated 30 July 2018.

11. 26 March 2019, the tribunal received an email from the Landlord, Mr Archibald Tannock, confirming that the septic tank repair had not yet been carried out and explaining why that was the case.
12. On 28 March 2019 the tribunal received an email from Kate Smith, Private Sector Officer, Falkirk Council with copies of correspondence sent to the Landlords dated 30 July, 23 August and 8 October 2018.

Ms Smith advised the tribunal that the issue relative to the septic tank had not been resolved by Falkirk Council.
13. On 29 March 2019 the tribunal received an email from Mr Kenneth Kendall-Ball indicating that he and his wife and rented the Property from the Letting Agents and were unaware of the outstanding RSEO.
14. By email dated 10 August 2019 Mr Tannock advised the tribunal that he had identified a company to carry out the required repair to the soakaway which would be carried out by the end of the month weather permitting.
15. By email dated 27 August 2019 Mr Tannock provided to the tribunal a report with photographs and an invoice from Scotdrain Limited dated 26 August 2019 relative to the installation of a soakaway at the Property.
16. The tribunal, comprising Miss Gillian Buchanan, Legal Member and Mr Nick Allan, Ordinary Member inspected the Property on the morning of 29 October 2019. The Landlord, Mr Archibald Tannock, was present. The Property was unoccupied and unfurnished. Mr Tannock provided to the tribunal a Landlord's Gas Safety Record dated 21 September 2019 and an EICR dated 19 June 2019.
17. It was dry and bright during the inspection. Photographs taken are produced in the attached Schedule.
18. Following the inspection of the Property the tribunal held a hearing at Wallace House, Maxwell Place, Stirling, FK8 1JU. The Landlord, Mr Archibald Tannock, was present at the hearing. The Tenant was neither present nor represented.
19. Mr Archibald Tannock made the following submissions:-
 - (a) That it was believed that the previous soakaway serving the Property had collapsed as the camera could not get through.
 - (b) That the neighbour refused permission to allow his garden to be excavated.
 - (c) That following the intervention of Falkirk Council the neighbour was persuaded to allow the excavation.
 - (d) That Mr Tannock believed Falkirk Council would excavate and repair the soakaway.
 - (e) That when the Tenant vacated the Property he advised that he had had no further problem and Mr Tannock therefore understood the required repairs had been carried out.

- (f) That after some difficulty finding a contractor, in August 2019 Scotdrains Limited installed the new soakaway which is in a "V" shape and comprises a 4" slotted pipe with a stand pipe into the septic tank.
- (g) That a buyer for the Property has been found and it is hoped that the Property will be sold in early December 2019.

20. The tribunal is satisfied that there are no outstanding works required in terms of the RSEO.

Decision

21. The tribunal carefully considered the evidence and was satisfied that the RSEO should be lifted and a Certificate of Completion discharging the RSEO under Section 60 of the Act should be granted.

The decision of the tribunal was unanimous.

Right of Appeal

22. 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 tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

23. 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 Buchanan

Signed

Date 12 November 2019

Legal Member and Chairperson

Housing and Property Chamber First-tier Tribunal for Scotland



2nd Re-inspection - Photograph Schedule Wallace View, Ferry Road, South Alloa, Falkirk, FK7 7LF

Case Reference: FTS/HPC/RP/18/0675

Date of inspection: 29/10/2019

Time of inspection: 10.00 am

Weather conditions: Dry and bright

Present: Miss Gillian Buchanan – Legal Member
Mr Nick Allan – Ordinary Member
Mr Archibald Tannock – The Landlord



Photo 1 – Front elevation



Photo 2 – Functioning hallway light fitting



Photo 3 – Functioning bedroom lights



Photo 4 – Former Lounge wall light location



Photo 5 – Septic tank soakaway



Photo 6 – Septic tank soakaway



Photo 7 – Carbon Monoxide alarm

Nick Allan FRICS
Surveyor – Ordinary Member
First-tier Tribunal
Housing and Property Chamber - 29th October 2019