

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Certification that the work required by a Repairing Standard Enforcement Order has been completed: Housing (Scotland) Act 2006, Section 60

Chamber Ref: FTS/HPC/RP/16/1021

Title no: REN14646

Flat 3/1, 17 Lawn Street, Paisley, PA1 1HD

(“The property”)

The Parties:-

Ms. Kuilin Liu, Flat 3/1, 17 Lawn Street, Paisley, PA1 1HD (“the tenant”)

Dr Jenny Wong and Mr Kai Chi Loi, 9/1, 15 Kirkton Avenue, Glasgow, G13 3PF
 (“the landlords”)

Tribunal Members:

Adrian Stalker (Chairman) and Kingsley Bruce (Ordinary Member)

The First-tier tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having so determined on 24 May 2019, hereby grants certification that the work required by the **Repairing Standard Enforcement Order** of 9 March 2017 relative to the property has been completed, with effect from the date of service of this Certificate, and the relative decision. 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.

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 and the preceding page are executed by Adrian Stalker, advocate, Advocates Library, Parliament House, chairperson of the tribunal at Glasgow on 24 May 2019, before this witness:-

R Forbes

Adrian Stalker

_____ witness

REBECCA FORBES name in full

20 YORK STREET Address

GLASGOW, G2 8QT

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Statement of Decision to Certify that the work required by a Repairing Standard Enforcement Order has been completed: Housing (Scotland) Act 2006, Section 60

Chamber Ref: FTS/HPC/RP/16/1021

Title no: REN14646

Flat 3/1, 17 Lawn Street, Paisley, PA1 1HD

("The property")

The Parties:-

Ms. Kuilin Liu, Flat 3/1, 17 Lawn Street, Paisley, PA1 1HD ("the tenant")

Dr Jenny Wong and Mr Kai Chi Loi, 9/1, 15 Kirkton Avenue, Glasgow, G13 3PF ("the landlords")

Tribunal Members:

Adrian Stalker (Chairman) and Kingsley Bruce (Ordinary Member)

Decision

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), decided to certify that the work required by the Repairing Standard Enforcement Order ("RSEO") of 9 March 2017, has been completed, with effect from the date of service of this decision, and the relative certificate under section 60.

Background

1. On 9 March 2017, the Tribunal issued a determination that the landlords had failed to comply with the duties imposed by section 14(1)(b) of the Act. On the same date, the Tribunal issued an RSEO in respect of the property. The RSEO made by the Tribunal required the landlords (designed in the RSEO as "the respondents") to take the following steps:

1. The respondents, either themselves or with other owners of the properties at 17 Lawn Street, Paisley:
 - i. to instruct a reputable contractor, specialising in roofing and roof repairs, to carry out an inspection to

- ascertain the cause of water damage to the ceiling and walls of the front and rear bedrooms at the property;
- ii. to instruct said contractor to prepare a report identifying the cause of the water damage, and the nature and type of works necessary to make the property wind and water tight, and to put the roof, drains and gutters in a reasonable state of repair and proper working order;
 - iii. to submit a copy of said report to the tribunal;
 - iv. to instruct said contractor to carry out the works identified in the report;
 - v. to instruct said contractor to provide confirmation in writing that that said works have been carried out;
 - vi. and to submit a copy of said written confirmation to the tribunal.
2. The respondents to make good any part of the ceiling or walls of the front and rear bedrooms subject to water damage.
 3. The respondents, either themselves or with other owners of the properties at 17 Lawn Street, Paisley, to repair or replace the close entry door lock, so as make the door secure.
 4. The respondents to repair or replace the hot water cylinder and immersion heater in the attic, or to take such other steps as are necessary to ensure that the installations for the supply of hot water through the hot water taps in the bath, wash hand basin and kitchen sink are in proper working order.
 5. The respondents to replace the bathroom extractor fan with a fan which extracts air to outside the building, rather than into the roof space.
 6. The respondents to instruct a reputable contractor to carry out an inspection of the electrical hob in the kitchen, in order to check whether it is in proper working order, and: (i) in the event that said contractor finds it to be in proper working order, to instruct the contractor to prepare a report confirming that it is in proper working order, and submit a copy to the tribunal; or (ii) in the event that said contractor finds the electrical hob not to be in proper working order, to repair or replace same.
 7. The respondents to replace the chairs provided by them, on which there are no labels attached to indicate that they

comply with the Furniture and Furnishings (Fire Safety) Regulations 1988, with chairs so labelled.

2. The Tribunal ordered that the works specified in the RSEO were to be carried out and completed within eight weeks from the date of service of the RSEO, that is, by 6 May 2017.

3. Subsequently, Dr Jenny Wong, one of the landlords, made applications to vary the RSEO, in order to allow more time for the landlords to comply with the RSEO. The Tribunal granted orders to this effect on 11 August, 1 November and 5 December 2017, and on 22 June 2018. The last of these orders extended the time for carrying out the steps in the RSEO till 10 September 2018. The reasons for these extensions are described in the relative decisions.

4. A further inspection of the property was undertaken by the Ordinary Member (Surveyor) of the Tribunal on 28 September 2018. A copy of his inspection report dated 31 October 2018 is attached. The Report indicates that item 4 in the RSEO (system for heating hot water) is still outstanding.

5. In its original decision (dated 9 March 2017), at paragraph 9(viii, ix and x) the tribunal made the following findings in fact regarding the hot water heating:

- In the past, hot water was provided to the property through a hot water cylinder and immersion heater in the attic. At the beginning of the tenancy, this was not functioning. As a consequence, there was no hot water supplied to the hot water taps in the bath and wash hand basin in the bathroom, or to the sink in the kitchen.
- In November 2016, following complaints by the applicant, Dr Wong endeavoured to address this problem by arranging for the installation of water heater in the kitchen.
- This heater has limited capacity. As result, the water from the hot water taps in the kitchen and bathrooms runs hot and cold. It is not possible to run a bath using the hot water tap in the bath, running continuously as would reasonably be anticipated, because of the substantial delays between periods when hot water is available to run from the tap.

6. The Ordinary Member made the following finding, on reinspection:

The system for heating domestic hot water had not been changed at the time of re-inspection and was found not to be capable of providing a continuous supply of hot water sufficient to fill the bath.

7. Thereafter, further correspondence ensued between Dr Wong and the Tribunal, concerning work that she had carried out, or was proposing to carry out, to address the outstanding matter. Eventually after some delay, the

Tribunal decided to fix a further inspection and hearing, in order to consider whether the requirements of the RSEO have now been met.

Inspection and hearing

8. A further inspection and hearing accordingly took place on 24 May 2019. The Tribunal members inspected the property at 10am. Dr Wong was present. The tenant was not present. She left the property some time ago.

9. At the beginning of the inspection, the Tribunal members were advised by Dr Wong that the hot water cylinder and immersion heater, believed to be located in the communal roof void, has now been made operational again. Consequently, this would mean that the hot water supply to the bathroom would come from the hot water cylinder and immersion heater, rather than the point of use hot water heater, located under the kitchen sink.

10. On inspection, the landlord demonstrated that the hot water was sufficient to fill a bath satisfactorily. The hot water in the bath, and the timer for the electric immersion heater, are shown in the photographs attached to this decision.

11. The Tribunal then held a hearing at 11:30am, at the Glasgow Tribunals Centre, 20 York Street, Glasgow. There was no attendance or representation at the hearing by either party.

Decision

12. In the circumstances, which were apparent at the inspection, the Tribunal decided that the landlords have now complied with the RSEO.

13. Accordingly, the Tribunal decided to certify that the work required by the RSEO has been completed. The section 60 Certificate is referred to for its terms.

14. The decision of the Tribunal was unanimous.

15. In terms of section 63 of the Housing (Scotland) Act 2006, this decision, and the variation, have effect from the date on which it is served. This means that it will no longer be an offence for the landlords to let the property. It may be let from the date of service of this decision.

16. 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 the decision was sent to them.

17. 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.

Adrian Stalker

Signed

Date 24 May 2019

Chairman



