

Housing and Property Chamber First-tier Tribunal for Scotland



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

CERTIFICATE OF COMPLETION under section 60 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/17/0084

Title no: Subjects being the top floor flat at 21 Court Street, Dundee, DD3 7QS registered under title number ANG10143

**Property at Top Floor, 21D Court Street, Dundee, DD3 7QS
("The House")**

The Parties:-

Lynne Findlay, residing at Top Floor, 21D Court Street, Dundee, DD3 7QS ("the former Tenant")

Samantha Whittington, formerly known as Samantha Hall residing at Strathearn, Findon Road, Findon, Worthing, West Sussex, BN14 0RD ("the Landlord")

The Tribunal comprised:-

Mrs Ruth O'Hare - Legal Member
Mr Nick Allan - Ordinary Member

The First-Tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") hereby certifies that the work required by the Repairing Standard Enforcement Order relative to the house dated 14 June 2017 has been completed. Accordingly the said Repairing Standard Enforcement Order 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 typewritten are executed by Ruth O'Hare, Legal Member of the Tribunal at Stonehaven on 5th April 2019 before this witness:-

R O'Hare

P Robb

Witness

Legal Member

Patrick Robb, 7 Bothwell Road, Aberdeen,
AB24 5DD

Housing and Property Chamber First-tier Tribunal for Scotland



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

Statement of Decision under section 60(4) of the Housing (Scotland) Act 2006
("the 2006 Act")

Chamber Ref: FTS/HPC/RP/17/0084

Title no: Subjects being the top floor flat at 21 Court Street, Dundee, DD3 7QS
registered under title number ANG10143

Property at Top Floor, 21D Court Street, Dundee, DD3 7QS
("The House")

The Parties:-

Lynne Findlay, residing at Top Floor, 21D Court Street, Dundee, DD3 7QS ("the former Tenant")

Peter Kinghorn, Dundee North Law Centre, 101 Whitfield Drive, Dundee, DD4 0DX
("the Tenant's Agent")

Samantha Whittington, formerly known as Samantha Hall residing at Strathearn,
Findon Road, Findon, Worthing, West Sussex, BN14 0RD ("the Landlord")

The Tribunal comprised:-

Mrs Ruth O'Hare - Legal Member
Mr Nick Allan - Ordinary Member

Background

1. Reference is made to the determination of the Tribunal dated 14 June 2017 which determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act in that she had failed to ensure the Property met the Repairing Standard. The works required by the RSEO were:-
 - (a) Instruct an independent chartered building surveyor to undertake a full survey report of the house to identify where possible the causes of water ingress and damp and carry out the works recommended in the report to ensure the house is watertight;
 - (b) Make good any internal decoration following completion of the works required at (a); and

- (c) Where the works required at (a) cannot be completed for any reason, provide evidence of reasonable steps taken to carry out the works;

The Tribunal required the works be completed within a period of three months from the date of service of the order.

2. Reference is further made to the decision of the Tribunal dated 13th February 2018 which determined to vary the RSEO to extend the period for the works by a period of six weeks to give the Landlord a further opportunity to undertake the survey report requested by the Tribunal.
3. On 5th July 2018 the former Tenant emailed the Tribunal to advise that she had vacated the property and the tenancy had therefore been terminated.
4. Reference is made to the decision of the Tribunal dated 16th November 2018 which determined to vary the RSEO to extend the period for the works by a period of four weeks. The Tribunal was satisfied that the Landlord was in the process of undertaking the works required to investigate and address the issues of water penetration.
5. On 3rd December 2018 the Landlord submitted a report from a chartered building surveyor on the water penetration issues. The report concluded that the areas identified by the Tribunal were no longer showing evidence of dampness. There were however new instances of water ingress which were both related to blocked rainwater gutters. It was the Landlord's intention to clear the gutters and address a scaffold hole in early course to remedy these issues.
6. On 19th February 2019 the Landlord contacted the Tribunal to confirm that all outstanding works had been carried out. The Ordinary Member subsequently carried out a re-inspection of the Property on 28th March 2019. Damp meter readings taken during the re-inspection showed no evidence of water ingress. A copy of the re-inspection report is attached herewith.
7. Having regard to the written representations from the Landlord and the findings of the re-inspection the Tribunal was satisfied that it had sufficient information to make a determination without the requirement for a further hearing and that there would be no prejudice to the parties in doing so.

Decision

8. The Tribunal having made such enquiries as it saw fit for the purpose of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, unanimously determined that the works required by the Repairing Standard Enforcement Order ("RSEO") had been completed and resolved to issue a Certificate of Completion of Work.

Reasons for decision

9. The Tribunal determined the application having regard to the findings of the re-inspection and the representations from the Landlord. The Tribunal considered it had sufficient information on which to make a decision.
10. The Tribunal was satisfied on the basis of the re-inspection and the written representations from the Landlord that the works required by the RSEO had been completed. Damp readings taken during the re-inspection on 28th March 2019 showed no evidence of water penetration at the Property therefore the Tribunal could reasonably conclude that the works undertaken by the Landlord had been successful in addressing the historic issues. Accordingly the Tribunal determined that a certificate of completion should be issued.
11. The decision of the Tribunal was unanimous.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

Signed 
R O'Hare

Ruth O'Hare
Legal Member

5th April 2019

Housing and Property Chamber First-tier Tribunal for Scotland



2nd Re-inspection Report

Top floor flat, 21D Court Street, Dundee, DD3 7QS

Case Reference:	PRHP/RP/1/0084
Date of re-inspection:	28th March 2019
Time of re-inspection:	12 noon
Weather conditions:	Sunny and dry
Present:	Mr Nick Allan – Ordinary Member Mr Gareth Tosh – Landlords agent Mr Darren Law – Chartered Surveyor engaged by L/L



Photo 1 – Front elevation

Requirements of RSEO:

Following an inspection of the property, and as a consequence of establishing the presence of significant dampness levels within the property, the Tribunal at its Hearing held on the 31st May 2017 determined that the following actions were required by a RSEO.

In particular, the Tribunal required the landlord to: -

- (a) Instruct an independent chartered building surveyor to undertake a full survey report of the house to identify where possible the causes of water ingress and damp and carry out the works recommended in the report to ensure the house is watertight;
- (b) Make good any internal decoration following completion of the works required at (a); and
- (c) Where the works required at (a) cannot be completed for any reason, provide evidence of reasonable steps taken to carry out the works.

The Tribunal ordered that the works specified in the Order must be carried out and completed within a period of three months from the date of service of the Notice.

A re-inspection of the property was undertaken on 11/10/2017 at which time it was noted that dampness levels continued to give cause for concern. A copy of this re-inspection report is attached for reference.

Prior to the 2nd re-inspection being undertaken on the 28th March 2019, the Tribunal were provided with:-

- i. A copy of a Building Inspection Report on Water Ingress in respect of the subject property, undertaken by D B Law Chartered Surveyors, dated November 2018; and
- ii. Correspondence relating to gutter cleaning and cement repairs that had been carried out as a consequence of recommendations contained within the report mentioned in (i) above. The work in question had been undertaken by Ferry Cherry Pickers.

At the date of the 2nd re-inspection it was observed that the now vacant property had been internally decorated throughout, from ground level the gutters appeared free of vegetation and two holes on the front elevation identified by DB Law, had now been suitably patched.

During the re-inspection damp meter readings were taken throughout the property in places where damp had previously been recorded.

Lounge - Inspection 28/03/2019

No evidence of dampness.

Kitchen – Inspection 28/03/2019

No evidence of dampness.

Bedroom 1 – Inspection 28/03/2019

No evidence of dampness.

Bedroom 2 – Inspection 28/03/2019

No evidence of dampness.

Bedroom 3 – Inspection 28/03/2019

No evidence of dampness.

Observation

It was also noted during the re-inspection that the gas boiler had been replaced.



Photo 2 – Lounge



Photo 3 – Kitchen



Photo 4 – Bedroom 2



Photo 5 – Bedroom 3



Photo 6 – Patched holes on front elevation



Photo 7 – Replacement gas boiler

Nick Allan FRICS

Ordinary Member - First-tier Tribunal for Scotland

01/04/2019