

# 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 24(1)**

**Chamber Ref: FTS/HPC/RP/18/01183**

**Title no: REN 35991**

**4 Lomond Drive, Newton Mearns, Glasgow, G77 6LR (“The Property”)**

**The Parties: -**

**Naeem Akhtar, formerly of 4 Lomond Drive, Newton Mearns, Glasgow (“the former Tenant”)**

**Rana Mohammad Yasin c/o AQA Ltd, 584 Cathcart Road, Glasgow, G42 8AB (“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 Landlord has complied with the Repairing Standard Enforcement Order (“RSEO”) dated 6 October 2018 determined that the Landlord has failed to comply with the RSEO.**

**The Tribunal comprised: -**

**Mrs Josephine Bonnar, Legal Member**

**Ms Lori Charles, Ordinary Member**

## Background

1. By application received on 22 May 2018 the former 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 former 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 has 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, (iii) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, (iv) Any fixtures, fittings and appliances supplied by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, and (v) Any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed, (vi) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, and (vii) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health. Specifically, the Tenant complained of water leaks from ceilings, roof in disrepair, damaged gutters, dangerous gas fire, no gas safety certificate provided, damaged plumbing and sanitary fittings, loose bathroom tiles and insect infestation in shower, smoke detectors not working, lack of CO detector, kitchen extractor blocked, floor broken by the stairs on the first floor, kitchen cupboards broken, no light in several rooms, broken curtains, water leakage from stairs window and repainting required . In addition, the Tenant complains that he had carried out a repair to electrical sockets at his own expense and that broken furniture and personal effects have been left in the house and garage.
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 6 July 2018. The parties were notified that an inspection and hearing would take place on 17 August 2018.
4. Following service of the Notice of Referral The Landlord’s agent notified the Tribunal that the Tenant had vacated the property on 16

July 2018. The Tribunal attempted to confirm the position with the Tenant but received no response. By Minute of Continuation dated 14 August 2018 the Tribunal decided that it would continue to determine the application in terms of Schedule 2 Paragraph 7(3) of the Act. Thereafter the Tribunal granted the Landlord's request to postpone the inspection and hearing. The Inspection and hearing were re-scheduled to 19 September 2018.

5. The Tribunal inspected the property on the morning of 19 September 2018. The letting agents, Mo Bukari and Omar Hayat attended on behalf of the Landlord
6. Following the inspection of the property the Tribunal held a hearing at the Glasgow Tribunals Centre, 20 York Street, Glasgow. The letting agents Mo Bukhari and Mo Arshad ("the agents") attended on behalf of the Landlord.
7. Following the hearing the Tribunal issued an RSEO in relation to the property. In terms of the RSEO the Landlord was required within 12 weeks of the date of service of the RSEO: -
  - i. To instruct a suitably qualified roof contractor to inspect and report on the condition of the roof and gutters and investigate the cause of water ingress at the property. Thereafter to carry out all recommended repairs to remedy the water ingress, damaged roof and gutters, and any resultant decoration made good.
  - ii. To instruct a suitably qualified window contractor to repair or replace all defective and damaged windows and doors at the property, including the garage windows and door.
  - iii. To instruct a suitably qualified SELECT or NICEIC registered electrician to move the electrical socket from the skirting board in the ground floor bedroom to an appropriate location and carry out a certified electrical condition check on the entire electrical installation of the property, and exhibit a copy of the EICR to the Tribunal,
  - iv. To replace the defective shower hose and damaged cistern in the bathroom,
  - v. To fix the loose tiles in the bathroom to the wall and re-grout same,
  - vi. To repair the extractor in the kitchen, do that it is no longer clogged with grease and replace all missing cupboard door

handles, and

- vii. To instruct a Gas Safe registered engineer to repair the gas fire in the property and thereafter carry out an inspection of the gas installation and appliances and issue a gas safety certificate, or to replace the fire.
8. The RSEO was issued to the Landlord's agent and to the Landlord by letter to an address in Pakistan, provided by the agent on 11 October 2018. On 6 November 2018, the letter addressed to the Landlord in Pakistan was returned by the Royal Mail. No explanation for non-delivery was provided. On 15 November 2018, in response to an enquiry from the Tribunal, the Landlord's agent advised that the postal address in Pakistan was correct and that no email address was available.
9. On 7 January 2019 a letter was issued by the Tribunal to the Landlord and the agent advising that a re-inspection of the property would be carried out on 15 February 2019 to establish if the work required by the RSEO had been carried out. By email dated 10 January 2019 the agent advised that they no longer represented the Landlord in connection with the property. In response to an enquiry by the Tribunal they confirmed that the address previously provided in Pakistan, was the correct address. On 25 February 2019, the Tribunal notified the Landlord that the re-inspection arranged for 15 February 2019 had been cancelled and that a re-inspection would now take place on 2 April 2019, when access would be required.
10. On 2 April 2019, the Ordinary Member of the Tribunal attended at the property. Access was not provided. The Ordinary Member noted that the property appeared to be unoccupied, with mail lying in the hallway. None of the external repairs appeared to have been carried out but it was not possible to establish whether the internal work had been completed. A re-inspection report was issued to the Landlord on 9 April 2019. On 3 May 2019, the letter to the Landlord notifying him of the re-inspection was returned by Royal Mail, with no explanation for non-delivery. Further enquiries were made by the Tribunal but no information regarding an alternative address for the landlord was established.
11. On 5 November 2019, the Tribunal issued a letter and Variation of the RSEO. In terms of the Variation the time for completion of the work was extended until 15 January 2020. In addition, the Landlord was required to provide the Tribunal with a report from the window and roof contractors regarding the repairs which were to be carried out and evidence of completion of all work specified in the RSEO.

The Landlord was also directed to submit an EICR and Gas Safety Report to the Tribunal. As mail sent to the Landlord had not been delivered, and as the Tribunal currently does not have an address for the Landlord, the letter, decision with statement of reasons and Variation of the RSEO were advertised on the Chamber website.

12. On 5 November 2019, the Landlord was notified by letter that a re-inspection of the property would take place on 24 January 2020. As the Tribunal has no current address for the landlord notification was made by posting the letter on the Tribunal website and by letter sent to the property.
13. On 24 January 2020 the Tribunal attended at the property to carry out the re-inspection. Access was provided by Nasreen Mustafa, who advised that the Landlord is her brother in law. She also confirmed that she and her husband currently reside at the property but are not tenants. She advised the Tribunal that the re-inspection report could be sent to the Landlord, at the property address, and she would arrange to send it on. She did not provide an address for the Landlord.

### **The Re-inspection**

14. During the re-inspection the Tribunal noted the following – the double glazing seal in the front door is unchanged and remains defective, previously high moisture readings in the porch are now within normal range, the gas fire remains capped, warning sticker removed (occupant advised that it does not work), no access to ground floor front bedroom, previous high moisture readings on ceiling of ground floor rear bedroom now within normal range and ceiling painted, power point has been removed from skirting board in rear ground floor bedroom and skirting repaired, tiles in bathroom repaired and new shower, toilet and sink installed, grout still missing, new units and extractor hood installed in kitchen, ceiling in dining room repaired and moisture readings within normal range, moisture readings in both upstairs bedrooms now within normal range, no evidence of water penetration, ceilings repainted and new window units installed, new carpet in hall, floor at top of stairs no longer uneven, garage windows remain damaged, garage door now working, gutters remain damaged and rain water pipe still disconnected, new tiled roof installed at property.
15. Following the reinspection, the Ordinary Member of the Tribunal prepared a report. At the request of the occupant of the property,

this report was sent to the Landlord care of the property address. In addition, it was sent to the landlord at the address in Pakistan previously provided and posted on the Chamber website. The Landlord was invited to make representations in connection with the re-inspection report. No representations were received.

### **Reason for decision**

16. The Tribunal considered the condition of the property at re-inspection, the terms of the RSEO and the Variation of the RSEO.
17. The Tribunal notes that although some of the work specified in the RSEO has been carried out, some work remains outstanding. In particular the sealed glazing unit in the front porch remains defective, the garage windows, gutters and rain water pipe have not been repaired, the defective gas fire has not been repaired or replaced and grout in the bathroom is still missing. Furthermore, the Landlord has failed to provide the Tribunal with a copy of the report from the roof contractor, documentary evidence from both the roof and window contractors of the work carried out, EICR and Gas Safety Report and evidence of completion of all work as stipulated in the Variation of RSEO.
18. The Tribunal is satisfied that the Landlord has failed to comply with the RSEO as varied by the Variation of the RSEO.
19. As the former Tenant is no longer in occupation of the property, and as the current occupier has indicated that she occupies the property as a relative of the property, and not a tenant, the Tribunal determined that a Rent relief Order in terms of Section 27 of the Act should not be made.

### **Decision**

20. The Tribunal determined that the Landlord had failed to comply with the RSEO as varied by the Variation of the RSEO.
21. The Tribunal also determined that the decision of the Tribunal should be served on the Landlord by posting the decision on the Tribunal website as the whereabouts of the Landlord are currently unknown.
22. 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.

**J Bonnar**

Josephine Bonnar, Legal Member:

Signed..... 17 July 2020