

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 Sections 26 and 28 (“the 2006 Act”)

Chamber Ref: FTS/HPC/RT/22/1745

Title no: ANG13795

**G/1 44 Main Street, Dundee DD3 7HN
 (“The Property”)**

The Parties:-

**Private Sector Services Unit, Dundee City Council, 5 City Square Dundee
 DD1 3BA
 (“the Third Party Applicant”)**

**Mr Ghulam Qadar and Mrs Zahida Qadar, 367 Clepington Road Dundee
 DD3 8ED
 (“the Landlords”)**

Tribunal Members

Graham Harding (Legal Member)

Robert Buchan (Ordinary Member)

Decision

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), unanimously determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order (“RSEO”) dated 9 March 2023. The Tribunal further determined that notice of the failure be served on the Local Authority in which the house is situated and to the Police Scotland for possible prosecution under the Act.

Background

2. Reference is made to the determination of the Tribunal dated 7 March 2023 which determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the 2006 Act in that it had failed to ensure that the property met the repairing standard. The Tribunal therefore imposed a RSEO. The works required by the RSEO were:-

That the landlord provided:-

- (a) A current Gas Safety Certificate produced by a suitably qualified gas engineer.
- (b) An Electrical Installation Condition Report by a qualified electrical contractor registered with SELECT or NICEIC or NAPIT dated after the date of this order.
- (c) A report by a suitably qualified building surveyor who is a member of the Royal Institution of Chartered Surveyors commenting on the causes of damp and mould in the property and the measures required to remedy the defects.

The Tribunal required the works be completed within a period of six weeks from the date of service of the RSEO.

- 3. On 26 June 2023 the Tribunal carried out a re-inspection of the property. Mr G Qadar, one of the Landlords and Mr S Cuthill, the Third Party representative, were present. The property was in the process of being redecorated and was no longer tenanted. The documents that had been required in terms of the RSEO had not been produced.
- 4. The findings of the re-inspection were issued to the Landlords and the Third Party following the re-inspection.
- 5. By emails dated 5 and 31 July and a letter received by the Tribunal administration on 2 August 2023 the Landlords submitted a Gas Safety Certificate dated 21/02/2022 an Electrical Installation Condition Report dated 12/04/2022 and a report from Kwiksolve, a timber preservation company.
- 6. The Tribunal by email dated 21 August wrote to the Landlords advising them that the documents submitted did not meet the requirements of the RSEO as the Gas Safety Certificate was out of date, the Electrical Installation Condition Report was not dated after the date of the RSEO and the report on the cause of damp and mould in the property had not been prepared by a suitably qualified building surveyor who is a member of the Royal Institution of Chartered Surveyors. The Tribunal allowed the Landlords a further four weeks to comply with the terms of the RSEO. The email was returned as undeliverable and the Tribunal administration on 22 August 2023 wrote to the Landlords with the same information sent by both Recorded Delivery and First-Class Post. The letter was signed for by the Landlords on 24 August 2023.
- 7. The Landlords did not provide the required documents.

Reasons for Decision

8. The Landlords have failed to provide any of the documents required in terms of the RSEO. The documents provided by the Landlords were inadequate and the Landlords were given additional time to produce the required documents but they failed to do so.
9. The Landlords have been given every opportunity to provide the documents and have offered no explanation as to why they are not available and have failed to communicate in any way with the Tribunal administration since July 2023.
10. The Tribunal therefore determines that the Landlord has failed to comply with the terms of the RSEO.
11. The decision of the Tribunal was unanimous.

Right of Appeal

1. **A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**
2. **Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

Signed: Graham Harding

Date: 25 October 2023

Chairperson