



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) in terms of Section 24(1) of the Housing
(Scotland) Act 2006**

Chamber Ref: FTS/HPC/RT/23/1747

**Property : 84 Bowhouse Road, Grangemouth FK3 OET (Registered under title
number STG31821) ("Property")**

Parties:

**Falkirk Council, Suite 2, The Forum, Callendar Business Park, Falkirk
FK1 1XR("Third Party")**

Raymond Newell, 84 Bowhouse Road, Grangemouth FK3 OET ("Tenant")

**Stewart MacInnes, Crichton Place, 2 Maddiston Road, Brightons FK2 ORZ
("Landlord")**

Tribunal Members :

Joan Devine (Legal Member); Greig Adams (Ordinary Member)

DECISION

The Tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property in respect that the Property does not meet the Repairing Standard in respect of Section 13(1)(c) of the Act. The Tribunal therefore issues a repairing standard enforcement order. The Tribunal's decision is unanimous.

Background

1. By application dated 29 May 2023, the Third Party applied to the Tribunal for a determination that the Landlord had failed to comply with their duties under Section 14(1) of the Act.
2. In the application, the Third Party stated that they believed that the Landlord had failed to comply with their duty to ensure that the property met the repairing standard as set out in Sections 13(1)(c) of the Act. The Application stated that the work which required to be carried out was:
 - Provide a copy of a current Electrical Installation Condition Report ("EICR") from a SELECT, NICEIC OR NAPIT accredited electrician in respect of the property containing no category C1 or C2 items of disrepair.
 - If applicable – provide a copy of the current Gas Safety certificate from a registered Gas Safe engineer, which refers to the provision for carbon monoxide detection.

- If applicable – install a carbon monoxide detector.
 - Install interlinked smoke and heat detection in accordance with Scottish Government statutory guidelines,
3. The Application was referred to the Tribunal and an inspection and Hearing were fixed for 6 September 2023.
 4. On 10 August 2023 the Third Party sent to the Tribunal a copy of an EICR supplied by the Landlord. The EICR did not show the name of the company or individual who has completed the EICR. The EICR did not indicate that it had been provided by a SELECT, NICEIC or NAPIT accredited electrician.

The Inspection

5. The Tribunal inspected the Property on the morning of 6 September 2023. The weather conditions at the time of the inspection were dry and bright. The Tenant was present at the Property during the inspection. The Property is a second floor flat. A schedule of photographs taken at the inspection is provided with this Decision.

The Hearing

7. The Hearing took place on 6 September 2023 by conference call. Neither the Tenant or the Landlord were in attendance. The Third Party was represented by Craig Beatt.

The Evidence

8. The evidence before the Tribunal consisted of:
 - 8.1 The Application completed by the Third Party Applicant
 - 8.2 Land Register report relating to the Property
 - 8.3 Notification letter to the Landlord dated 28 April 2023
 - 8.4 The Tribunal's inspection of the Property
 - 8.5 The oral representations of the Third Party

Summary of the Issues

9. The issue to be determined was whether the Property meets the repairing standard as set out in Section 13 of the Act and whether the Landlord had complied with the duty imposed on them by Section 14(1)(b).

Findings in Fact

10. Tribunal made the following findings in fact :

- 10.1 The tenancy is a tenancy of a house let for human habitation, which does not fall within the exceptions set out in Section 12(1) of the Act. The provisions set out in Chapter 4 of the Act therefore apply.
- 10.2 The Tribunal in its inspection carefully checked the items which were the subject of the application. Inside the Property the Tribunal observed the following:
- 10.2.1 Smoke alarms had been fitted in the hall and the living room.
- 10.2.2 A heat detector had been fitted in the kitchen.
- 10.2.3 The alarms were interlinked.
- 10.2.4 There were no gas appliances in the Property.

Reasons for Decision

11. Following its inspection and the hearing it was apparent that the outstanding issue was the provision of a current EICR in acceptable terms. The Tribunal issued a Direction dated 6 September 2023 as follows :

The Landlord is required to lodge with the Tribunal by 5pm on 27 September 2023 :

Evidence that the EICR for the Property dated 28 June 2023 was prepared by a competent person being a person who is :

- *Employed by a firm that is a member of an accredited registration scheme operated by a recognised body*
- *A self-employed member of an accredited registration scheme operated by a recognised body, or*
- *Able to complete the checklist at Annex A of the Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property dated October 2015 and revised in November 2016 ("Guidance").*

In the event that the evidence to be relied upon is that the person is able to complete the checklist at Annex A of the Guidance, such a checklist completed by the person must be provided.

12. By email dated 26 September 2023 the Landlord provided information regarding the qualifications of the electrician who had prepared the EICR which was lodged with the Tribunal on 10 August 2023. The information provided was a City and Guilds certificate of unit credit issued in March 1997, a certificate of attendance at a training course regarding verification of existing electrical installations, a City and Guilds certificate issued in May 2001 and a City and Guilds level 3 certificate awarded on 27 October 2008.
13. The information provided by the Landlord on 26 September 2023 fell short of what was required by the Direction dated 6 September 2023. The Tribunal therefore determined that the Property does not meet the repairing standard as required by Section 13(1)(c) of the Act.

Decision

14. The Tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act, and in particular that the Landlord has failed to ensure that the Property meets the repairing standard in that an appropriate EICR has not been provided evidencing that the installations in the Property for the supply of electricity and space heating are in a reasonable state of repair and in proper working order.
15. The Tribunal therefore makes a repairing standard enforcement order as required by Section 24(2) of the Act.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

**Legal Member
20 November 2022**