



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Section 26 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 Repairing Standard Enforcement Order dated 20 November 2023 (“RSEO”) within the period of time set out in the RSEO. Notice of the failure will be served on the local authority. The Tribunal also determined to make a rent Relief Order. The Tribunal's decision is unanimous.

**Background**

1. An inspection of the Property was fixed for 6 September 2023. In advance the Third Party lodged a copy of an EICR dated 28 June 2023 provided to the Third Party by the Landlord. The EICR did not show the name of the company or individual who had completed the EICR. The EICR did not indicate that it had been provided by a SELECT, NICEIC or NAPIT accredited electrician.
2. The Tribunal proceeded with the inspection of the Property and a 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.*

3. By email dated 26 September 2023 the Landlord provided information regarding the qualifications of the electrician who had prepared the EICR dated 28 June 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.
4. 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 did not meet the repairing standard and issued a Decision dated 20 November 2023 requiring the Landlord to comply with a Repairing Standard Enforcement Order relative to the Property issued by the Tribunal on the same date.
5. The RSEO required the Landlord to:
  1. *Provide a copy of a current Electrical Installation Condition Report (“EICR”) from a SELECT, NICEIC OR NAPIT accredited electrician following a full inspection of the electrical installation and apparatus throughout the Property confirming the installation and apparatus is satisfactory, fully functioning, meets current regulatory standards and containing no category C1 or C2 items of disrepair.*

The Tribunal ordered that the works specified in the RSEO must be carried out and completed within the period of 6 weeks from the date of service of the RSEO.

6. The Landlord did not respond to the RSEO. A re-inspection of the Property was fixed for 10 April 2024. In advance of that date the Landlord did not provide an appropriate EICR or evidence of the qualifications of the individual who prepared the EICR dated 28 June 2023. The Tribunal determined to allow the

Landlord a further period to comply with the RSEO and issued a Direction dated 8 April 2024 requiring the Landlord to lodge by 26 April 2024 :

*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.*

*A current Electrical Condition Installation Report (“EICR”) from a SELECT, NICEIC OR NAPIT registered electrician following a full inspection of the electrical installation and apparatus throughout the Property confirming the installation and apparatus is satisfactory, fully functioning and meets current regulatory standards and containing no category C1 or C2 items of disrepair*

7. The Landlord did not lodge a response to the Direction dated 8 April 2024.

#### Reasons for Decision

8. The Tribunal unanimously determined that the Landlord has failed to comply with the RSEO within the period of time for completion of the works set out in the RSEO.
9. The Tribunal determined to make a rent relief order in terms of section 27 of the Housing (Scotland) Act 2006. The amount by which the rent should be reduced is a matter for the discretion of the Tribunal. The Tribunal noted that the lack of an acceptable EICR does not prevent the Tenant from using any part of the Property but the EICR does not comply with the repairing standards statutory guidance for private landlords. The tribunal determined that a reduction of rent in the sum of 10% would be reasonable and proportionate. The rent relief order will be effective from 28 days after the last date on which a request may be made for permission to appeal this decision.

#### **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.**

Joan Devine

**Legal Member, 4 June 2024**