



**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/24/0472**

**Property : 7 Cobblebrae Crescent, Falkirk FK2 7QW (Registered under title number STG48934) (“Property”)**

**Parties:**

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

**Yasmin Akhtar, 7 Cobblebrae Crescent, Falkirk FK2 7QW (“Tenant”)**

**Khan Homes Scotland Ltd, 33 Abercairney Crescent, Maddiston FK2 ONT (“Landlord”)**

**Tribunal Members :**

**Joan Devine (Legal Member); Sara Hesp (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)(f) and (g) of the Act. The Tribunal therefore issues a repairing standard enforcement order. The Tribunal's decision is unanimous.

**Background**

1. By application dated 29 January 2024, 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, C2 or F1 items of disrepair.

- If applicable – provide a copy of the current Portable Appliance Test (PAT – only if you provide any white goods / electrical appliances
  - If applicable – provide a copy of the current gas safety certificate
  - If applicable – install a carbon monoxide detector
  - If you have not already done so install interlinked smoke and heat detection in accordance with Scottish Government statutory guidelines,
3. The Tribunal issued a Direction dated 4 February 2024 in terms of which the Landlord was directed to lodge an up to date EICR, an up to date gas safety certificate and evidence of interlinked fire detection devices and a heat alarm in the Property. A response was sought by 23 February 2024. On 12 February 2024 the Third Party Applicant sent to the Tribunal a copy EICR and gas safety certificate supplied to them and noted a number of discrepancies in the certificates.
  4. The Application was referred to the Tribunal and an inspection and Hearing were fixed for 22 August 2024. On 1 August 2024 the Landlord provided to the Tribunal with an up to date EICR and gas safety certificate. The gas safety certificate was dated 2 February 2024 and noted that carbon monoxide alarms in the Property were correctly located correctly; that the carbon monoxide alarms were in date; that the testing of the carbon monoxide alarms was satisfactory and that smoke and heat alarms were located and fitted correctly.

#### The Inspection

5. The Tribunal inspected the Property on the morning of 22 August 2024. The weather conditions at the time of the inspection were dry and bright. The Tenant was present at the Property during the inspection. A schedule of photographs taken at the inspection is provided with this Decision.

#### The Hearing

7. The Hearing took place on 22 August 2024 by conference call. The Tenant was in attendance with her son, Sahil Hanis. The Third Party Applicant was represented by Craig Beatt. The Landlord was not in attendance. The Tribunal explained that the inspection had shown that there was no provision in the Property for the detection of smoke and heat and there was no carbon monoxide monitor although there was a gas boiler in the Property. This was contrary to what was stated in the gas safety certificate provide by the Landlord. Mr Beatt said that the Third Party Applicant had concerns regarding discrepancies in the EICR. Mr Hanis told the Tribunal that the Landlord had provided the kettle, toaster, microwave and washing machine in the Property. Mr Hanis told the Tribunal that his mother had lived in the Property since 5 November 2022 and that he lived there with her.

#### 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 13 December 2023
- 8.4 The Tribunal's inspection of the Property
- 8.5 The oral representations of the Third Party Applicant and the Tenant.

### 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 There were no smoke alarms fitted in the hall or the living room.
    - 10.2.2 There was no heat detector fitted in the kitchen.
    - 10.2.3 There was a gas boiler in the kitchen of the Property.
    - 10.2.4 There was no carbon monoxide alarm in the Property.

### Reasons for Decision

- 11. Following its inspection and the hearing it was apparent that the outstanding issues were the provision of a current EICR in acceptable terms; the installation of interlinked smoke detection devices and a heat alarm; the installation of a carbon monoxide alarm which complies with statutory guidance; the provision of an up to date gas safety certificate provided by a gas safety engineer and the provision of a PAT test certificate.
- 12. It was a matter of considerable concern to the Tribunal that the gas safety certificate provided by the Landlord dated 2 February 2024 contained patently incorrect information.

## 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; the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
15. The Tribunal therefore makes a repairing standard enforcement order as required by Section 24(2) of the Act. Although an EICR has already been provided, it contained discrepancies. A gas safety certificate has already been provided but it contains patently incorrect information. Updated certification is therefore required.

### **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.**

J Devine

**Legal Member  
29 August 2024**

**Housing and Property Chamber**  
**First-tier Tribunal for Scotland**

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**Schedule of photographs taken on 22 August 2024**



*Photograph 1: Front elevation*

*Photograph 2: Kitchen: gas boiler – no carbon monoxide detector*



*Photograph 3: Living room: no smoke detector*



*Photograph 4: Hallway ceiling: no smoke detector*



*Photograph 5: Kitchen ceiling: no heat detector*

