

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/23/1321

**79 McLaren Terrace, Carronshore, Falkirk FK2 8EQ
 (“The Property”)**

The Parties:-

**Falkirk Council, Private Sector team, Suite 1, The Forum, Callendar
 Business Park, Falkirk FK1 5XR
 (“the Third Party Applicant”)**

**Mr Steven Thicot, 79 McLaren Terrace, Carronshore Falkirk FK2 8EQ
 (“the Tenant”)**

**Mr Kenneth McBride, 40B Russell Street, Falkirk FK2 7HS
 (“the Landlord”)**

**Tribunal Members
 Graham Harding (Legal Member)
 Nick Allan (Ordinary Member)**

Decision

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 also determined it should make a Rent Relief Order. 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

1. Reference is made to the determination of the Tribunal dated 11 October 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 provide a current Electrical Installation Condition Report in respect of the property from a SELECT, NICEIC or NAPIT accredited electrician that contains no Category C1 or C2 items of disrepair.

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

2. On 12 March 2024 the Tribunal carried out a re-inspection of the property. The Tenant and Landlord were present. The Tribunal established that no repairs had been done to the electric circuits nor had a current EICR been produced as had been required in terms of the RSEO.
3. At the hearing following the re-inspection which was attended by the Landlord and a representative from the Third Party the Tribunal agreed to a variation of the RSEO by extending the time limit for compliance until 15 April 2024.
4. The findings of the re-inspection were issued to the Landlord, the Tenant and the Third Party following the re-inspection.
5. The Tribunal received an email from the Landlord dated 9 April 2024 attaching a Minor Works Certificate prepared by Marc Gallagher Electrical Services, Falkirk. The Tribunal established that the said contractor was not registered with SELECT, NICEIC or NAPIT. By email dated 29 April 2024 the tribunal wrote to the Landlord advising the Tribunal still required an EICR and requesting he provide further information from the contractor if he was not registered with one of the three organisations.
6. A hearing was assigned to take place by teleconference on 13 August 2024.
7. No response was received from the Landlord.

The Hearing

8. A hearing was held by teleconference on 13 August 2024. Mrs Marie Ferry attended on behalf of the Third Party. Neither the Landlord nor the Tenant attended nor were they represented. The Tribunal being satisfied that intimation of the hearing had been given to the Landlord and the Tenant determined to proceed in their absence.
9. The Tribunal heard from Mrs Ferrie who submitted that the Landlord had been given sufficient time to comply with the terms of the RSEO and had failed to do so. She said that the Landlord had not engaged with the Tribunal and that it was important that the property should be safe for the Tenant. Mrs Ferrie submitted that it would be appropriate to issue a Rent Relief Order to reflect the Landlord's failure to comply with the terms of the RSEO.

Reasons for Decision

10. The Landlord has failed to comply with the terms of the RSEO. He has failed to engage with the Tribunal despite being given additional time to comply with the RSEO.
11. The Landlord has been given every opportunity to produce the required documentation and has offered no explanation as to why he has not.
12. It is important that the electrical wiring in the property is safe for the Tenant to use and any work carried out must be done by an appropriately qualified contractor. The Tribunal required the Landlord to provide a current EICR from a SELECT, NICEIC or NAPIT accredited electrician that contains no Category C1 or C2 items of disrepair. That has not been produced.
13. The Tribunal therefore determines that the Landlord has failed to comply with the terms of the RSEO.
14. The Tribunal further determined that in the circumstances given that the failure to comply with the terms of the RSEO presented a risk to the health and safety of the Tenant and other occupiers in the property that it was appropriate to make a Rent Relief Order restricting the rent by 75% until such time as the Landlord complied with the terms of the RSEO.
15. The decision of the Tribunal was unanimous.

Right of Appeal

1. **A landlord or tenant 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
G Harding

Date: 2 September 2024

Chairperson