



**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**

**Reference number: FTS/HPC/RT/23/4105**

**Re: Property at 35d Barnes Street, Barrhead, Glasgow G78 1EH (registered under title number REN12338) (“Property”)**

**The Parties:**

**East Renfrewshire Council, Environment Department, 211 Main Street, Barrhead, Glasgow G78 1SY (“Third Party”)**

**Shona O’Dowd, 35d Barnes Street, Barrhead, Glasgow G78 1EH (“Tenant”)**

**James Wardrop, North Craigton, 26 Craigton Road, Newton Mearns, Glasgow G77 6QE (“Landlord”)**

**Tribunal Members:**

**Joan Devine (Legal Member); Andrew McFarlane (Ordinary Surveyor Member)**

**DECISION**

The Tribunal determined that the Landlord has failed to comply with the Repairing Standard Enforcement Order dated 7 March 2024 (“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**

The Tribunal issued a decision dated 7 March 2024 requiring the Landlord to comply with the RSEO relative to the Property issued by the Tribunal on the same date. The RSEO required the Landlord to:

- 1. Replace the sealed double glazing unit of the kitchen window.**
- 2. Replace the diffuser of the strip light in the kitchen.**
- 3. Refix or replace the inset guard of the trickle vent on the kitchen window.**
- 4. Lodge with the Tribunal a current Gas Safety Certificate for the Property.**

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

### **Reinspection and Hearing**

A re-inspection of the Property was carried out on 30 August 2024 and was followed by a Hearing at Glasgow Tribunals Centre. The Tenant was present at the re-inspection as was Grant Murray of the Third Party. Mr Murray also attended the hearing. The Landlord was not in attendance at the re-inspection or the hearing.

The Tribunal reviewed the works listed in the RSEO and noted that none of the items had been completed. The re-inspection report was issued to the Parties and comments were invited within 14 days. The Third Party lodged a response to the re-inspection report dated 17 September 2024 in which they stated that they agreed with the re-inspection report and sought a rent relief order at 90%. The Landlord did not lodge a response to the re-inspection report. The response received from the Third Party was sent to the Landlord and any representations they wished to make were asked to be made by 24 September 2024.

### **Reasons for Decision**

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.

The Tribunal determined to make a rent relief order in terms of section 27 of the Housing (Scotland) Act 2006 (“Act”).

Section 27 of the Act states : “A rent relief order is an order by the First-tier Tribunal which reduces the rent payable under the tenancy in question by such amount (not exceeding 90% of the rent which would, but for the order, be payable) ...”. The amount by which the rent should be reduced is a matter for the discretion of the Tribunal. The failure to provide a gas safety certificate raises serious health and safety concerns. The Landlord has had ample time to comply with the RSEO.

There can be a number of mitigating and aggravating factors which a Tribunal can take into account in determining the correct percentage to apply in any particular case. The Landlord did not engage in the Tribunal process and did not put forward any mitigating factors. The total lack of engagement by the Landlord is an aggravating factor as is the health and safety concerns raised by the lack of a gas safety certificate.

The Tribunal noted the request by the Third Party for a 90% reduction. Having balanced all the factors the Tribunal considered a reduction of that amount, in this instance, was excessive. The Tribunal therefore determined that a reduction of rent in the sum of 75% 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.**

A handwritten signature in blue ink that reads "Tom Devine". The signature is written in a cursive style with a large initial 'T'.

**Legal Member, 1 October 2024**