

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**Determination: Housing (Scotland) Act 2006: Sections 26 and 27**

**Chamber Ref: FTS/HPC/RT/22/1921**

**120 Green Road, Paisley, PA2 9AJ registered in the Land Register of Scotland under Title Number REN12048 (“the Property”)**

**The Parties:-**

**Renfrewshire Council, Cotton House, Paisley, PA1 1BR (“the Third Party Applicant”)**

**Mr Paul Duffy, 120 Green Road, Paisley, PA2 9AJ (“the Tenant”)**

**Mr Ian Tennie, 63 Victoria Road, Paisley, PA2 9PT (“the former Landlord”)**

**Mr Paul Kanamkudam Varghese, 2 Stanley Crescent, Paisley, PA2 9LF (“the Landlord”)**

**Tribunal Members:**

**Mr Martin McAllister, Solicitor (Legal Member) and Mr Donald Wooley, Chartered Surveyor (Ordinary Member) (“the tribunal”)**

**Decision**

- (i) The tribunal determines that the Landlord had complied with the repairing standard enforcement order dated 16 September 2022.**
- (ii) The tribunal determines to issue a certificate in terms of section 60 (5) of the Housing (Scotland) Act 2006.**
- (iii) In terms of section 27 (4) (a) of the Housing (Scotland) Act 2006, the tribunal revokes the rent relief order granted on 2 May 2023.**

**Background**

- 1. By application dated 15<sup>th</sup> June 2022, the Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the former Landlord had failed to comply with the duties imposed by**

Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (the 2006 Act). The application is in terms of Section 22 (1) of the 2006 Act ("the 2006 Act.")

### **Repairing Standard Enforcement Order**

2. Following upon an inspection of the Property by the members and Hearing both held on 14<sup>th</sup> September 2022, a repairing standard enforcement order (RSEO), dated 16 September 2024, was made in the following terms:

The Landlord was required to:

- 2.1 Produce a current Electrical Installation Condition Report (EICR) for the Property and PAT testing certificates in respect of those electrical appliances provided by the landlord. The Reports require to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category.**
- 2.2 Install smoke detectors within the living room and hall and a heat detector in the kitchen, ensuring that they are all interconnected, fully functional and meet the requirements contained within the Housing (Scotland) Acts 1987 and 2006, as subsequently amended by the Modification of the Repairing Standard Regulations 2019.**
- 2.3 Produce a report from a suitably qualified Gas Safe Registered engineer, supported by a valid and satisfactory gas safety certificate, confirming that the boiler, providing hot water and heating to all relevant fittings in the property, is in proper working order. The report should also confirm if the existing carbon monoxide detector is fully functional and complies with all relevant statutory guidelines. In the event that the current detector is established to be defective it should be replaced with a new and fully compliant CO detector, appropriately located within the kitchen. Any other recommendations contained within the report should be addressed and repaired by an appropriate contractor.**

The Landlord was required to comply with the RSEO before 31<sup>st</sup> October 2022.

### **Re-inspection**

3. The members of the tribunal reinspected the Property on 29<sup>th</sup> March 2023.

4. The Landlord produced a Gas Safety Certificate. The terms of the certificate were satisfactory.
5. It was noted that no EICR was available. The Landlord stated that the relevant certification was available and that he would send it to the Tribunal office.
6. It was noted that there was no smoke detector in the living room and the Landlord said that he would contact his electrical contractor on the matter.

### **Determination following upon the re-inspection on 29 March 2023**

7. The tribunal noted that, notwithstanding the Former Landlord's statement at the reinspection that he would submit an EICR, none had been produced.
8. Non- production of the E.I.C.R and the absence of the smoke detector in the living room was evidence that the Former Landlord had not complied with that part of the RSEO.
9. The tribunal determined to serve appropriate notice on the local authority that the RSEO had not been complied with.
10. The tribunal determined that it would be appropriate to make a rent relief order. It determined that a rent relief order of 40% be made to reflect the seriousness and significant health and safety considerations of the failure to comply with the RSEO. This reduced the rent payable under the tenancy by 40% of the rent which would, but for the order, be payable.

### **Change of Ownership**

11. The Former Landlord sold the Property to the Landlord on 18 March 2024 and the Tenant's tenancy continued after the sale.

### **Reinspection 22 November 2024**

12. The tribunal inspected the Property on 22 November 2024 and a report of the re-inspection, prepared by the Ordinary Member, is attached to this decision and is referred to for its terms.
13. Prior to the re-inspection, the Landlord submitted an EICR by a SELECT registered electrician. The report highlighted several "C2" defects and had the handwritten statement: "All Rectified."
14. A subsequent signed and dated EICR by the same electrician, and which was submitted to the Tribunal, confirmed that there were no category "C1" or "C2" defects and assessed the installation as "Satisfactory."

## **Determination**

15. The tribunal considered what it had found at the re-inspection of the Property. There was suitable provision of smoke and heat detection and a satisfactory EICR. The Re-inspection report prepared by the Ordinary Member is referred to for its terms.
16. The tribunal considered it appropriate that a relevant certificate of compliance and a revocation of the rent relief order should be issued.

**In terms of section 46 of the Tribunals (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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

Martin J. McAllister,  
Solicitor, legal member of  
Tribunal.  
5 December 2024

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### First-Tier Tribunal for Scotland (Housing and Property Chamber) Re-inspection report



**Property** 120 Green Road, Paisley, PA2 9AJ

**Ref No:** FTS/HPC/RT/22/1921

**Surveyor:** Donald Wooley MRICS

#### **Previous inspection**

The subject property was previously inspected on 14<sup>th</sup> September 2022 by the First-tier Tribunal for Scotland (Housing Property Chamber). Following a subsequent hearing a Repairing Standard Enforcement Order (RSEO) was dated 16 September 2022

A re-inspection of the subject property was arranged for Wednesday 29 March 2023. At the re-inspection it was identified that items detailed in the RSEO remained outstanding. In the interim the property was sold to a third party although the tenant remained in occupation.

### **Access:**

A second re-inspection of the subject property was arranged for Friday 22 November 2024 at 10.00 am. I arrived at the property at 09.45 am and met Mr. Martin McAllister, the legal member of the Tribunal.

Also present were Mr Paul Duffy, the tenant, who provided access and Mr and Mrs Varghese, the new owners and landlords.

Weather conditions at the time of the inspection were dry, cold and sunny. Both Tribunal members left the property at 10. 20.

### **Purpose of re-inspection**

The purpose of this re-inspection was to determine if the required works as detailed under the Repairing Standard Enforcement Order had been completed.

### **Work required under the Repairing Standard Enforcement Order (RSEO):**

1. Produce a current Electrical Installation Condition Report (EICR) for the Property and PAT testing certificates in respect of those electrical appliances provided by the landlord. The Reports require to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to have no recommendations in the C1 or C2 category.
2. Install smoke detectors within the living room and hall and a heat detector in the kitchen, ensuring that they are all interconnected, fully functional and meet the requirements contained within the Housing (Scotland) Acts 1987 and 2006, as subsequently amended by the Modification of the Repairing Standard Regulations 2019.
3. Produce a report from a suitably qualified Gas Safe Registered engineer, supported by a valid and satisfactory gas safety certificate, confirming that the boiler, providing hot water and heating to all relevant fittings in the property, is in proper working order. The report should also confirm if the existing carbon monoxide detector is fully functional and complies with all relevant statutory guidelines. In the event that the current detector is established to be defective it should be replaced with a new and fully compliant CO detector, appropriately located within the kitchen. Any other recommendations contained within the report should be addressed and repaired by an appropriate contractor.

At the first re-inspection it was identified that items 1 and 2, as described in the RSEO, remained outstanding.

### **Site Observations:**

Prior to the re-inspection the new owners had supplied the Tribunal with a copy of an Electrical Installation Certificate dated 10 September 2024, prepared by "M Finnie



Electrical” who are SELECT registered. The report highlighted several “C2” defects. The report, which was handwritten, also states “All Rectified” although this subsequent statement was neither signed nor dated. A subsequent signed and dated copy of the EICR completed by M Finnie Electrical confirming that there were no category C1 or C2 defects was submitted to the Tribunal by email. It assessed the installation as “Satisfactory”.



1. 22 November 2024



2. 22 November 2024



### **3. 22 November 2024**

Photographs 1-3 confirm that smoke detectors have been installed in the living room and hall and a heat detector in the kitchen. During the inspection they were tested and established to be interlinked.

#### **Outstanding Repairs and items in RSEO:**

There are no outstanding items relative to the RSEO

Donald Wooley MRICS  
Ordinary Member  
First-Tier Tribunal for Scotland  
4 December 2024