

# **Housing and Property Chamber**

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

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

**Statement of Decision: Housing (Scotland) Act 2006 Section 60**

**Chamber Reference: FTS/HPC/RT/23/1301**

**2 Balfour Crescent, Larbert FK5 4BA (“the property”)**

**Diamond Administration Ltd, 2 Carronvale Road, Larbert, FK5 3LZ (“The Landlord”),**

**Falkirk Council - Private Sector Team, Suite 2, The Forum, Callendar Business Park, Falkirk, FK1 5XR (“the Third-Party Applicant”)**

### **Tribunal Members**

**Josephine Bonnar (Legal Member)**

**Sara Hesp (Ordinary Member)**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order (“RSEO”) relative to the property dated 22 August 2023, determined that the Landlord has complied with the order and that a certificate of completion to that effect should be issued.**

### **Background**

- 1. The Third Party applied to the Tribunal in terms of Section 22 of the Housing (Scotland) Act 2006. The Third Party stated that the Landlord had failed to meet the repairing standard in relation to the property. In particular, the Landlord had failed to provide an electrical installation condition report and a gas safety certificate for the property and evidence that the property has the correct smoke and heat detectors. The Third Party advised that the tenant did not wish to be a party to the application.**
- 2. On 26 June 2023, the parties were notified that the Tribunal would inspect the property on 9 August 2023 at 10am and that a hearing would take place on the 9 August 2023 at 2pm, by telephone conference call.**

The Third Party was notified that they should arrange for access to the property and a letter was issued to the Tenant advising her about the inspection.

3. On 28 June 2023, the Tribunal issued a direction to the Landlord. The Landlord was directed to provide :- (i) A current Electrical Installation Condition Report (EICR) for the property from a SELECT, NICEIC or NAPIT accredited electrician containing no category C1 or C2 items of disrepair, which also confirms that smoke and heat detectors have been installed at the property in accordance with Scottish Government guidance, and (ii) If there is a gas supply to the property, a copy of the current gas safety certificate from a Gas Safe registered engineer which refers to the provision of carbon monoxide detection and details the condition of the boiler. The Landlord was notified that if he failed to provide the said documents and evidence, the Tribunal might draw an inference from that failure that the property does not comply with the repairing standard. The documents were to be provided by 21 July 2023. The Landlord did not respond to the direction.
4. The Tribunal attended the property on 9 August at 10am. Neither the Landlord nor the Third Party were represented. The Tribunal were not provided with access to the property by the tenant and could not carry out the inspection. The hearing took place by telephone conference call at 2pm on the same date. The only participant was Mrs McFarlane on behalf of the Third Party.
5. Following the hearing, the Tribunal issued an RSEO. This required the Landlord (i) To install interlinked heat and smoke detectors at the property which comply with current regulations and guidance or provide evidence that they had already done so; (ii) To provide a current Electrical Installation Condition Report (EICR) for the property from a SELECT, NICEIC or NAPIT accredited electrician containing no category C1 or C2 items of disrepair, which also confirmed that smoke and heat detectors have been installed at the property in accordance with Scottish Government guidance; and (iii) If there is a gas supply to the property, to provide a copy of the current gas safety certificate from a Gas Safe registered engineer which refers to the provision of carbon monoxide detection and details the condition of the boiler. The RSEO stipulated that the work was to be completed within 4 weeks of service of the Order.
6. A copy of the order was sent to the Landlord. The Landlord did not respond or submit the documents or evidence specified in the RSEO. The Landlord was notified that an inspection of the property would take place on 10 January 2024. The Tribunal attended but did not get access to the property. It was then established that the tenant had not been notified of the inspection. A further inspection was arranged for 8 July

2024 at 10.30am and a hearing by telephone conference call scheduled for 2pm. The notification letter was served on the Landlord by advertisement as mail issued to him on 1 February 2024 had been returned by Royal Mail marked “addressee gone away”.

7. The Tribunal attended at the property a 10.30am on 8 July 2024. Mr Beatt attended on behalf of the Third Party. The Landlord did not attend, and the tenant did not provide access, although a letter had been issued to her notifying her of the date and time. Thereafter a hearing took place by telephone conference call at 2pm. Only Mr Beatt participated.
8. Following the hearing the Tribunal determined that the Landlord had failed to comply with the RSEO. A decision to that effect with statement of reasons was issued to the parties. The Tribunal also issued a Rent Relief Order.
9. On 4 November 2024, the Third Party Applicant sent an email to the Tribunal with a gas safety certificate and EICR which had been received from the Landlord’s agent. The Gas Safety Certificate had been issued by a Gas Safe registered engineer. The EICR had been issued by an electrician who had been NICEIC accredited at the date of issue, although this had later expired. On 13 November 2024, the Third Party Applicant notified the Tribunal that they were happy with the documents submitted, if the Tribunal was satisfied with the electrician’s accreditation status.

### **Findings in Fact**

10. The Landlord has provided a gas safety certificate for the property which is in satisfactory terms. It was issued on 21 December 2023 by a Gas Safe registered engineer. The certificate confirms that a carbon monoxide detector is present in the property and is in working order. It also confirms that smoke and heat detectors in the property are fitted and located correctly.
11. The Landlord has provided an EICR for the property in satisfactory terms. It is dated 5 March 2023 and was issued by an electrician who was NICEIC registered at the date of the inspection.

### **Reasons for decision**

12. The Landlord has provided the documents and information specified in the RSEO. The certificates are in satisfactory terms and confirm that

carbon monoxide and smoke and heat detectors have been installed at the property.

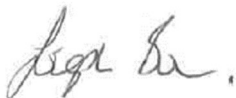
### **Decision**

13. The Tribunal determined that the Landlord has complied with the RSEO issued by the Tribunal.
14. The Tribunal also determined that the RRO should be revoked.
15. The decision of the Tribunal is unanimous.

### **Right of Appeal.**

**A Landlord, Tenant or Third-party applicant 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.**

In terms of Section 63 of the Act, 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.



Josephine Bonnar, Legal Member

15 December 2024