



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

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”)

Joan Devine (Legal Member); Sara Hesp (Ordinary Member)

DECISION

The Tribunal determined that the Landlord has failed to comply with the Repairing Standard Enforcement Order dated 29 August 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's decision is unanimous.

Background

The Tribunal issued a decision dated 29 August 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. Install a smoke detector in the living room and hallway of the Property, position a carbon monoxide monitor in accordance with Scottish Government requirements, fit a heat detector in the kitchen, and ensure all alarms are interlinked.**
- 2. Provide to the Tribunal a current Electrical Installation Condition Report from a SELECT, NICEIC or NAPIT registered electrician following a full inspection of the electrical installation and apparatus throughout the Property confirming the installation and apparatus is satisfactory, is fully functioning, meets current regulatory standards and containing no category C1 or C2 items of disrepair.**

- 3. Provide to the Tribunal a current Gas Safety Certificate for the Property prepared by a Gas Safe Engineer.**
- 4. Provide to the Tribunal a current PAT test certificate addressing the state of repair of all appliances provided by the Landlord in the Property. The PAT test certificate should be prepared by a suitably qualified tester and should show the working order of each appliance and whether the condition is satisfactory.**
- 5. Evidence of the date of installation of the carbon monoxide detector and the smoke and heat detection, such as copy invoices showing the date of installation.**

The Tribunal ordered that the works specified in this order must be carried out and completed within the period of 28 days from the date of service of the RSEO.

A re-inspection of the Property was carried out on 9 December 2024. The Tenant was present at the re-inspection. The Landlord was not in attendance. None of the certificates required by parts 2, 3 and 4 of the RSEO were provided to the Tribunal in advance of the re-inspection.

The Tribunal reviewed the works listed in the RSEO and noted that a smoke detector had been installed in the living room and hallway. A heat detector had been installed in the kitchen. The alarms were tested and were found not to be interlinked. A carbon monoxide monitor had been installed in the kitchen.

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 18 December 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 the Tenant on 19 December 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.

Items 2,3 and 4 of the RSEO required paperwork to be lodged with the Tribunal. Nothing was lodged by the Landlord. Whilst smoke and heat detectors had been installed in accordance with item 1 of the RSEO, the alarms were not interlinked.

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 the certification set out at parts 2,3 and 4 of the RSEO 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 the required certification.

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 was appropriate. The Tribunal therefore determined that a reduction of rent in the sum of 90% 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.

J Devine

**Legal Member
17 January 2025**