

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 Section 26(1)

Chamber Ref: FTS/HPC/RT/17/0153

**Flat 3/2, 221 Allison Street, Govanhill, Glasgow, G42 8RU
("The Property")**

The Parties:-

**Mrs. Anne Moran, Glasgow City Council, Development and Regeneration Services, Exchange House, 231 George Street, Glasgow, G1 1RX
("the Third Party")**

**Mr. Iazar Daniel and Mrs. Turtulea Nicoleta, formerly residing at the property
("the Tenants")**

**Miss Naila Hanif, 340 Albert Drive, Glasgow, G41 5HH
("the Landlord")**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') comprised:-

Patricia Anne Pryce - Chair and Legal Member

Andrew Taylor - Ordinary Member (Surveyor)

Background

1. On 17 June 2017, the tribunal issued a determination which stated that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"). On the same date, the tribunal issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property. The RSEO made by the tribunal required the Landlord:-
 - (a) To replace the non-functioning and damaged door located in bedroom one to ensure that it is in a reasonable state of repair and in proper working order.
 - (b) To repair or replace the non-functioning kitchen door to ensure that it is in a reasonable state of repair and in proper working order.

- (c) To produce a complete Electrical Installation Condition Report (“EICR”) by a suitably qualified and SELECT or NICEIC registered electrician and to carry out all works which are identified by that report as being Category C1 and C2. Thereafter, to produce written confirmation from the said electrician confirming that all C1 and C2 works have been carried out.
- (d) To repair or replace the loose floor coverings located in the living room and in bedroom two.
- (e) To install fire detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government’s Technical Handbook 2013 Domestic under Section 2 – Fire, sub-section 2.11 Communication.

The tribunal ordered that the works specified in the RSEO were to be carried out and completed within 21 days from the date of service of the RSEO, that is, by 26 July 2017.

- 2. A further inspection of the property was undertaken by the Ordinary Member (Surveyor) of the tribunal on 22 August 2017. A copy of his inspection report dated 19 October 2017 is attached. The Landlord attended at the inspection. The reinspection report was referred to the tribunal for a decision. The Landlord provided an Electrical Installation Condition Report (“EICR”) to the tribunal but the tribunal advised the Landlord that the terms of this report were not sufficient and did not comply with the RSEO. The tribunal decided to allow the Landlord a further opportunity to provide an EICR which complied with the RSEO but did not receive such an EICR from the Landlord.

Decision

- 3. The tribunal takes the view that the Landlord has had ample time to provide an EICR which complied with the RSEO. The tribunal noted that in terms of the application itself, the Third Party had first complained to the Landlord in March 2017, nine months ago. The tribunal also considered that it had allowed the Landlord additional opportunities to produce an EICR which complied with the RSEO but the Landlord failed to produce this to the tribunal.
- 4. Accordingly, the tribunal takes the view that the Landlord’s failure to implement the RSEO amounted to a breach of the RSEO. In accordance with the relevant provisions of Section 26 of the 2006 Act, the tribunal required to determine whether a Rent Relief Order should be made. As the Tenant had vacated the property, the tribunal could not consider this.
- 5. The tribunal took the view that the EICR required by the RSEO had been outstanding for a considerable period of time. The tribunal took the view that this report could have easily been produced in that period of time.
- 6. The tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the RSEO in relation to the property, determined that the Landlord has failed to comply with the RSEO in terms of Section 26(1) of the Housing (Scotland) Act 2006 and that a

notice of the failure be served on the Local Authority in which the property is situated.

7. The decision of the tribunal is unanimous.

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.

 P A Pryce

Signed 

Date 22 December 2017


Patricia Anne Pryce, Chair and Legal Member