

# **Housing and Property Chamber**

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

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**Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) issued under Sections 26 and 27 of the Housing (Scotland) Act 2006.**

**Chamber Reference number: FTS/HPC/RT/17/0168**

**Re: Property at Flat 1/1, 263, Langside Road, Glasgow, G42 8XX registered in the Land Register for Scotland under title number GLA13278 ("the Property")**

### **The Parties:**

**Ms Suzana Nedelcu residing at Flat 1/1, 263, Langside Road, Glasgow, G42 8XX ("the Tenant")**

**Ms Shabnum Sattar residing at Flat 2/2, 41, Holmlea Road, Glasgow, G44 4BJ ("the Landlord")**

**Glasgow City Council, having a place of business at Samaritan House, 3<sup>rd</sup> Floor, 79, Coplaw Street, Glasgow, G42 7JG ("the Third Party Applicant")**

### **Tribunal Members**

**Karen Moore (Chairperson)**

**Donald Wooley (Surveyor Member)**

### **Decision**

The Tribunal determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order dated 30 June 2017 in relation to the Property and determined to impose a Rent Relief Order.

This decision should be read in conjunction with:

Statement of Decision and Repairing Standard Enforcement Order dated 30 June 2017

### **Factual Background**

1. By application dated 26 April 2017, the third party applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber), and hereinafter referred to as "the Tribunal", for a determination that the Landlord had failed to comply with the duty imposed on her by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in respect that the Property does not meet the Repairing Standard in respect of 13(1)(a), 13(1) (c), 13(1) (f) and 13(1) (g) of the Act.
2. On 30 June 2017, the Tribunal issued a determination that the Landlord had failed to comply with the duty imposed on her by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") and on the same date, issued a Repairing Standard Enforcement Order (RSEO) as follows:-

*"The Landlord must on or before 11 August 2017:-*

- 1. Instruct a SELECT or NICEIC electrician to carry out a full inspection of the electrical installation and apparatus throughout the Property and to repair or renew any parts which require to be renewed or repaired to ensure the installation and apparatus is fully functioning and meets current regulatory standards and provide a EICR to the tribunal*
- 2. Instruct a gas safe engineer to carry out a full inspection of the gas central heating system and to repair or renew any parts which require to be renewed or repaired to ensure the installation and system is fully functioning and meet current regulatory standards and provide a gas safety certificate to the tribunal;*
- 3. Repair or renew the broken rear facing window by replacing all panes of glass and renewing or repairing the surrounding frame to ensure that the window is fully functioning and complies with current regulations;*
- 4. Provide and install sufficient hard wired and interlinked smoke, heat and fire detectors to comply with current regulations as defined in the revised statutory guidance detailed in Domestic Technical Handbook prepared by the Scottish Government."*

### **Re-Inspection and Further Information**

3. The Ordinary Member of the Tribunal re-inspected the Property on 13 September 2017. An adult male was present in the Property and identified himself to the Ordinary Member as Shahi Ali, a relative of the Landlord. He advised the Ordinary Member that he resided there as his main residence.
4. The Ordinary Member inspected the Property and found that none of the works required by the RSEO had been carried out. The Ordinary Member's Re-

inspection Report is annexed as relative hereto and is referred to for its terms in respect of the re-inspection findings.

5. The Re-inspection Report was issued to the parties. Only the third-party applicant responded and commented that he considered that the Tribunal should impose a Rent Relief Order of 90%.

#### **Decision of the Tribunal and Reasons for the Decision of the Tribunal**

6. Having been satisfied that none of the works required by the RSEO had been carried out, the Tribunal had regard to its powers in terms of the Act, and, in particular, to Section 26 (1) and (2) of the Act which states: *"It is for the First-tier Tribunal to decide whether a landlord has complied with a repairing standard enforcement order made by the First-tier Tribunal and (2) Where the First-tier Tribunal decides that a landlord has failed to comply with the repairing standard enforcement order, the First-tier Tribunal must (a) serve notice of the failure on the local authority, and (b) decide whether to make a rent relief order"*
7. As none of the works required by the RSEO had been carried out and as there had been no indication from the Landlord that she proposed to carry out any of the works, the Tribunal had no difficulty in deciding that the Landlord had failed to comply with the RSEO.
8. The Tribunal then had regard to Section 26 (2)(b) of the Act. The Tribunal firstly considered whether or not the tenancy referred to in the Tenant's application to the Tribunal remained in place. The Tribunal noted that although Mr. Ali who was present at the Re-inspection identified himself as a relative of the Landlord and had advised the Ordinary Member that he resided at the Property, no evidence had been placed before the Tribunal to the effect that the tenancy between the Tenant and the Landlord had been terminated. The Tribunal took the view that, in the absence of evidence to the contrary, the tenancy continued and proceeded to consider whether it should make a Rent Relief Order (RRO). Having regard to the nature of the works required by the RSEO, the Tribunal held that a RRO was appropriate. The Tribunal then considered the effect of the condition of the Property on the Tenant's enjoyment of the Property and held the view that the works required by the RSEO seriously affected the amenity of the Property and so had a significant detrimental effect on the Tenant's enjoyment of the Property. The Tribunal determined that, given the extent of the disrepair, that the maximum relief of 90% reflected the loss of amenity. The Tribunal proceeded to make a RRO to that effect.
9. The decision of the Tribunal is unanimous.

#### **Appeal**

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

Karen Moore

Chairperson

24 November 2017

24 Nov 2017

This is the Re-inspection Report referred to  
in the decision of over date,

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## Housing and Property Chamber First-tier Tribunal for Scotland



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



**Property** Flat 1/1, 263 Langside Road Glasgow, G42 8XX

**Ref No:** FTS/HPC/RT/17/0168

**Surveyor:** Donald Wooley MRICS

#### **Previous inspection**

The subject property was previously inspected on 21<sup>st</sup> June 2017 by the First-tier Tribunal for Scotland (Housing Property Chamber). With the exception of the common entry close, no internal access to the property was provided and observations were therefore based on an external inspection of the building from the public road and communal rear court area. A Repairing Standard Enforcement Order was served on 30<sup>th</sup> June 2017.

#### **Access:**

A re-inspection of the subject property was arranged for Wednesday 13<sup>th</sup> September 2017 at 10.00 am. I arrived at the property shortly before the appointed time and confirmed my arrival with the administration section at 1 Atlantic Quay Glasgow by telephone.



Access to the property was provided by a Mr Shahi Ali. He introduced himself as a relation (cousin) of the landlord and stated that he had been occupying the property on a rent free basis for approximately three months. He was clearly expecting my visit as, unprompted, he immediately brought to my attention the presence of smoke and heat detectors. Mr Ali informed me that he was currently an "asylum seeker" originating from Pakistan. He is not an interested party in relation to the application and no other party was present.

Both internal and external access was available to the property and with the benefit of a stepladder the ceiling mounted smoke detectors were tested to determine if they were operational.

Weather conditions at the time of the inspection were dry, dull and overcast. I left the property at 10.40 am and confirmed my departure with administration.

### **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:**

**The following works were required to be completed by the landlord in accordance with the Repairing Standard Enforcement Order:**

The Landlord must on or before 11 August 2017:-

1. Instruct a SELECT or NICE|C electrician to carry out a full inspection of the electrical installation and apparatus throughout the Property and to repair or renew any parts which require to be renewed or repaired to ensure the installation and apparatus is fully functioning and meets current regulatory standards and provide a EICR to the tribunal
2. Instruct a gas safe engineer to carry out a full inspection of the gas central heating system and to repair or renew any parts which require to be renewed or repaired to ensure the installation and system is fully functioning and meet current regulatory standards and provide a gas safety certificate to the tribunal;
3. Repair or renew the broken rear facing window by replacing all panes of glass and renewing or repairing the surrounding frame to ensure that the window is fully functioning and complies with current regulations;
4. Provide and install sufficient hard wired and interlinked smoke, heat and fire detectors to comply with current regulations as defined in the revised statutory guidance detailed in Domestic Technical Handbook prepared by the Scottish Government;

5. Provide and install sufficient carbon monoxide detectors to comply with current regulations and
6. Make good any décor damaged as a result of these works.

**Site Observations:**

- (1) The occupier was unable to supply or exhibit an Electrical Installation Condition Report (EICR) and was unaware of the existence of any such report. Having regard to the age of the electrical installation, I am unable to confirm that it is fully compliant with current regulatory standards
- (2) The occupier was unable to supply or exhibit a gas safety certificate and was unaware of the existence of any such document. I am therefore unable to confirm that the property is fully compliant with current regulatory standards.
- (3) The defective and broken panes of glass at the kitchen window have been renewed and a number of external repairs completed to the framework of the window. It appears wind and watertight with no evidence of recent water ingress. The window sash operating mechanism remains defective as the original sash cords have been removed and not replaced.



**21 June 2017**



**13 September 2017**



**13 September 2017**  
**Missing sash cord kitchen window**

- (4) Ceiling mounted smoke detectors have been installed at the hallway and living room and a similarly mounted heat detector installed in the kitchen. The fittings appear to be hard wired and interlinked although no supporting documentation was provided. The fittings were tested and established to be functional. Connecting wiring between the appliances is, in places, enclosed in PVC ceiling mounted conduit. This is poorly secured and in places, hanging from the ceiling.



**13 September 2017**  
**Living room smoke detector**



**13 September 2017**  
**Hall smoke detector**



**13 September 2017**  
**Kitchen heat detector**



**13 September 2017**  
**Hanging PVC conduit wiring**

- (5) A Carbon Monoxide (CO) detector has been installed within the room in which the gas boiler is located. Scottish Government statutory guidance for the provision of carbon monoxide alarms in private rented housing states that; "Unless otherwise indicated by the manufacturers, CO detectors should be either :

ceiling mounted and positioned at least 300 mm from any wall or wall mounted and positioned at least 150mm below the ceiling and higher than any door or window in the room."

The CO detector is, in accordance with the Scottish Government guidelines, wrongly positioned at a height considerably below the window.





**13 September 2017  
CO Detector**



**13 September 2017  
Positioning of CO Detector**

- (6) The flat would benefit from a comprehensive scheme of redecoration although no significant damage has occurred to the decoration as a result of those works completed to date which relate to the outstanding RSEO.

#### **Outstanding Repairs:**

No EICR or Gas Safety certificate have been provided.

No documentation relating to the installation of the smoke and heat detectors has been provided nor is there any supporting documentation relating to who installed the detectors, their qualifications or the date of installation.

The sash window at the kitchen has no sash cords and the window has no means of remaining open without additional support. It is therefore not fully functional.

The CO detector is not positioned in accordance with Scottish Government guidelines.

#### **Other Issues:**

The property appears to be occupied by a person having no connection with the application to the First-tier Tribunal who alleges that they are related to the landlord, are living rent free and have been in occupation for approximately three months. This has not been confirmed by any other party and there are no supporting documents.

At the date of the original inspection, 21 June 2017, no access was gained to the property although a neighbour confirmed that, as far as he knew, the property was occupied.

While not forming part of the application, general maintenance of the tenement, common areas and stairwell remains neglected and in poor general condition.



**21 June 2017**



**13 September 2017**



**21 June 2017**



**13 September 2017**

**Comments:**

This report will be passed to the parties for comment before being submitted to the First-tier Tribunal for Scotland (Housing Property Chamber) for their decision.

Donald Wooley MRICS  
Ordinary Member  
First-Tier Tribunal for Scotland  
13 September 2017

# **Housing and Property Chamber**

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

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

**RENT RELIEF ORDER: Housing (Scotland) Act 2006 Section 27**

**Chamber Reference number: FTS/HPC/RT/17/0168**

**Re: Property at Flat 1/1, 263 Langside Road, Glasgow, G42 8XX registered in the Land Register for Scotland under title number GLA13278 ("the Property")**

**The Parties:**

**Ms Suzana Nedelcu residing at Flat 1/1, 263, Langside Road, Glasgow, G42 8XX ("the Tenant")**

**Ms Shabnum Sattar residing at Flat 2/2, 41, Holmlea Road, Glasgow, G44 4BJ ("the Landlord")**

**Glasgow City Council, having a place of business at Samaritan House, 3<sup>rd</sup> Floor, 79, Coplaw Street, Glasgow, G42 7JG ("the Third Party Applicant")**

**Tribunal Members**

**Karen Moore (Chairperson)**

**Donald Wooley (Surveyor Member)**

### **NOTICE TO SHABNUM SATTAR RESIDING AT FLAT 2/2, 41, HOLMLEA ROAD, GLASGOW, G44 4BJ ("THE LANDLORD")**

Whereas in terms of its decision dated 24 November 2017, the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the tribunal.

The tribunal determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 90% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under section 64 of the said Act.

**A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

If a party seeks permission to appeal and this permission is refused, the decision will be treated as having effect from the day on which the refusal is made (unless the party then seeks permission from the Upper Tribunal to appeal the decision. In that event, if permission is refused, the decision is treated as having effect from the day on which the Upper Tribunal refuses the permission).

If permission for an appeal against the decision of the tribunal is granted, then the effect of the decision and the Rent Relief Order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal. In the event that the decision is upheld, then the decision will be treated as having effect from the day on which the appeal is abandoned or so determined. The Rent Relief Order will be effective 28 days from the date on which the appeal is abandoned or so determined.

If an application for permission to appeal is received, then the tribunal will notify you of this and the eventual outcome of that application and any subsequent appeal.

Signed .....

Date 24 November 2017

Chairperson