

# 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:** in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") in respect of an application made under Section 22(1A) of the Act

**Chamber Reference number: FTC/HPC/RP/19/0913**

**Parties:**

Mr. Peter Chinskie Durnion, residing at 14, Lauranne Place, Bellshill, ML4 3HX ("the Landlord")

**Property:** 231B, Main Street, Bellshill ML4 1AJ being the subjects registered in the Land Register for Scotland under Title Number LAN53079 ("the Property")

**Tribunal Members**

Karen Moore (Chairperson)

Andrew Murray (Ordinary Member)

This Decision should be read in conjunction with (i) Decision and Repairing Standard Enforcement Order relating to the Property both dated 17 May 2019, (ii) Decision and Variation of Repairing Standard Enforcement Order relating to the Property both dated 19 June 2019, (iii) Decision and Variation of Repairing Standard Enforcement Order relating to the Property both dated 27 November 2019 and Decision and Variation of Repairing Standard Enforcement Order relating to the Property both dated 25 February 2020

**Decision**

Having been satisfied that the works required by the RSEO had now been carried out, the Tribunal, in terms of Section 26(1) of the Act, held the view that the landlord has complied with the RSEO and so discharged it.

**Background**

1. By application received on 21 March 2019 ("the Application"), the then tenant of the Property applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) 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 Sections 13 (1) (a), 13(1) (f) and 13(1) (g) of the Act. Although, the Application does not specifically refer to a failure to comply with Section 13(1)(c), the Application does complain of a lack of safety certificates and lack of ventilation in the bathroom and so the Tribunal dealt with this under Section

13(1)(c). An Inspection and Hearing took place on 15 May 2019 at 10.00 a.m. and 11.30 a.m., respectively after which the Tribunal imposed a Repairing Standard Enforcement Order (“the RSEO”). Thereafter, the RSEO was varied to allow the Landlord further time to comply.

### **Case Management Discussion (CMD)**

2. Under normal circumstances, the Tribunal would arrange for the Ordinary Member to carry out a re-inspection, to confirm the completion of the work, in order that a certificate could be issued, under section 60 of the Housing (Scotland) Act 2006. Unfortunately, this has not been possible, due to the continuing effects of the COVID-19 pandemic. In the circumstances, a CMD was arranged for 21 January 2021 at 14.00 by telephone conference call, in order to discuss further procedure in the case.
3. Prior to the CMD the Tribunal issued the following Direction in terms of Rule 16 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”): The Landlord is directed to submit: (i) A current Gas Safety Certificate and (ii) A current Electrical Installation Condition Report (EICR) and Portable Appliance Testing (PAT) on appliances provided by the Landlord. By email dated 11 January 2021, the Landlord complied with the Direction.
4. The CMD took place on 21 January 2021 at 14.00 by telephone conference call. The Landlord took part.
5. The Tribunal advised the Landlord that having received the certificates required by its Direction, the Tribunal was satisfied that the RSEO had been complied with.

### **Decision of the Tribunal**

6. Having been satisfied that the works required by the RSEO had now been carried out, the Tribunal, in terms of Section 26(1) of the Act, held the view that the landlord has complied with the RSEO and so discharged it.
7. 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.

### **Effect of Section 63 of the 2006 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.

# K Moore

Karen Moore  
Chairperson  
21 January 2021