

# Housing and Property Chamber First-tier Tribunal for Scotland



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

**STATEMENT OF DECISION: Section 26 and 27 of the Housing (Scotland) Act, as amended**

**Chamber Ref: FTS/HPC/RT/20/2525**

**Title no: STG46574**

**94 Alyth Drive, Polmont FK2 0YW ("The Property")**

**The Parties:-**

**Falkirk Council, Private Sector Team,<sup>9</sup> The Forum, Suite 1, Callendar Business Park, Falkirk FK1 1XR ("the third party applicant")**

**Mr Ronald Peddie, Callanderfield, Burnbrae Gardens, Falkirk FK1 5SB ("the Landlord")**

**Tribunal Members: Richard Mill (Legal Member) and Colin Hepburn (Ordinary Member)**

## **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal"), having made enquiries for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the Property concerned, and taking account of the all representations received, determined that the Landlord has failed to comply with the Repairing Standard Enforcement Order (RSEO). The Tribunal also determined to make a Rent Relief Order. The decisions of the Tribunal were unanimous.

## **Background**

Reference is made to the determination of the Tribunal dated 11 June 2021 which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") and to the Repairing Standard Enforcement Order ("the RSEO") also dated 11 June 2021.

The RSEO required the Landlord to undertake works as is necessary for the purposes of ensuring that the Property concerned does meet the repairing

standard and that any damage caused by the carrying out of work in terms of the said Order is made good.

In particular, the Tribunal required the Landlord:-

1. An Electrical Installation Condition Report (EICR) from a SELECT, NICEIC or NAPIT accredited electrician in respect of the property, containing no Category C1 or C2 items of disrepair, which also refers to the provision for smoke and heat detection in accordance with Scottish Government guidance.

The Tribunal ordered that the requirements specified in this Order must be carried out and completed within the period of 28 days from the date of service of this Notice and evidenced to the Tribunal.

No further documentation or other correspondence has been submitted by the Landlord to the Tribunal.

### **Reasons for Decision**

A hearing to determine the Landlord's compliance with the RSEO was held by teleconference at 10 am on 9 September 2021. The Landlord failed to join the hearing. This had been intimated to him. No explanation for his failure to participate had been provided. The third party applicant was represented by Miss Kate Smith. She confirmed that no further documentation had been supplied to Falkirk Council by the Landlord.

The required EICR in terms of the RSEO has not been produced. No communications have been received from the Landlord since the Tribunal's decision and RSEO of 11 June 2021.

The Tribunal is very concerned that the Landlord has failed to demonstrate that the property is safe to live in. There is a continued lack of evidence that the electrics are safe and that there is adequate provision for the detection of fire.

No information was available which would justify affording the Landlord a further opportunity to carry out the works, and the outstanding issues originally identified remain outstanding. There has been no compliance. The Landlord has failed to comply with the Repairing Standard Enforcement Order.

The Tribunal also decided to make a Rent Relief Order in terms of Section 27 of the Act. Having taken into account all the circumstances of which it is aware, the Tribunal decided that a Rent Relief Order for 90% of the rent was just, equitable and proportionate. The potential consequences of failing to have adequate provision for the detection of fire is death. This decision and the Rent Relief Order will be intimated to the tenant.

Section 29 of the Act provides that a Landlord who, without reasonable excuse, fails to comply with a Repairing Standard Enforcement Order commits an offence. Accordingly, the Tribunal determined that Police Scotland should be notified of the Landlord's failure to comply with the Order.

### Right of 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.

In witness whereof these presents type-written on this and the preceding page(s) are executed by Richard George Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the tribunal at Edinburgh on 9 September 2021 before this witness:-

R Mill

\_\_\_\_\_ Legal Member  
C McNaught

\_\_\_\_\_ Witness

CATHERINE MCNAUGHT Name

69-71 DALRY ROAD Address

EDINBURGH

EH11 2AA