

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Section 26 (1)

Case Reference FTS/HPC/RP/21/0792

Mr Alan Smith, 25 Main Street, Patna, KA6 7LN (“the Tenant”)

Mr Brian Smith, 3 Bankknowe Terrace, Tayport, DD6 9LL (“the Tenant’s Representative”)

New City Homes Ltd, a Company registered under the Companies Acts (SC135301) and having its registered office at The Knowe, 42 Auchinleck Road, Cumnock, Ayrshire, KA 18 1AE (“the Landlord”)

25 Main Street, Patna, KA6 7LN registered in the Land Register of Scotland under Title Number AYR94445 (“the Property”)

Tribunal Members: Martin McAllister (Legal Member) and Donald Wooley, surveyor, (Ordinary Member) (“the tribunal”).

Decision

1. The First-tier Tribunal for Scotland issued a Repairing Standard Enforcement Order (‘RSEO’) dated 8th July 2021 in respect of the Property in the following terms:

1. **The Landlord is required to produce a current Electrical Installation Condition Report for the Property and PAT testing for any portable appliances supplied by the Landlord. (“EICR”). The Report requires to be prepared by a suitably approved electrician who either is employed by a firm that is a member of an accredited registered scheme operated by a recognised body or a self-employed member of an accredited registration scheme operated by a recognised body, or is able to complete, sign and submit to the Tribunal the checklist at Annex A of the Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property issued on 1st December 2016 together with copies of documentary evidence in support of the checklist. The Report requires to have no recommendations in the C1 or C2 category.**

2. **The Landlord is required to produce a satisfactory Gas Safety Certificate for the Property prepared by a suitably qualified gas engineer registered in the Gas Safe Register.**
3. **The repairing standard enforcement order requires to be complied with by 11th August 2021.**

2. No EICR or Gas Safety Certificate was submitted by the Landlord.
3. The legal and ordinary member inspected the Property on 21st September 2021 and a copy of the schedule of photographs prepared by the ordinary member is attached.
4. The Tenant was present at the inspection and said that no contact had been made with him with regard to a gas engineer or electrician requiring access.

Decision and Reasons

5. The Tribunal determined that the RSEO has **not been complied with**. No certificates had been provided by the Landlord and the Tenant had stated that he had not been asked to provide access to engineers. Accordingly, the Tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order, in relation to the Property concerned, 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.
6. The Tribunal was obliged, in terms of Section 26 (2) (b) of the Act to decide whether it should make a rent relief order. It considered that it would be appropriate to allow parties an opportunity to make representations on the matter and adjourned consideration of this to a Hearing to be conducted by audio conference on 13th October at 2pm. Parties will be provided with appropriate joining instructions for the Hearing in due course. Parties are free to make any written representations and these must be lodged with the Tribunal by 11th October 2021.

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.

M McAllister

Martin Joseph McAllister,
Solicitor, legal member of
Tribunal.
23rd September 2021